

THE STATE OF TEXAS §

COUNTY OF HARRIS §

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**MEMORIAL THICKET, SECTION ONE**

THIS DECLARATION, made on the date hereinafter set forth by LANDAR CORPORATION, a Texas corporation, and HARRY REED & CO., INC., a Texas corporation, of Harris County, Texas, acting herein by and through their duly authorized officers, hereinafter referred to collectively as "Declarant."

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property heretofore platted and subdivided into that certain subdivision known as MEMORIAL THICKET, SECTION ONE, a subdivision in Harris County, Texas, described in the plat recorded in Volume 285, Page 107 of the Map Records of Harris County, Texas; and

WHEREAS, Declarant desires to hold, sell and convey said property subject to the following covenants, restrictions, reservations, and easements, which are for the purpose of establishing a uniform plan for the development, improvement and sale of said property, and to insure the preservation of such uniform plan for the benefit of both present and future owners of the lots within said subdivision;

NOW, THEREFORE, Declarant hereby adopts the following conditions, covenants and restrictions which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subdivision and which shall be applicable to the lots in said subdivision and shall run with the land and shall bind all parties having or acquiring any right, title, or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to MEMORIAL THICKET HOMEOWNERS ASSOCIATION, INC., a Non-Profit Corporation incorporated under the laws of the State of Texas, its successors and assigns.

Section 2. "The Property" or "The Properties" shall mean and refer to the tract of land hereinabove described as MEMORIAL THICKET, SECTION ONE. Furthermore, "The Property" or "The Properties" may also include any additional tracts or parcels of land as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Lot" or "Building Plot" shall mean and refer both to each plot of land shown upon the recorded subdivision map upon which there has been or will be constructed a single-family residence, and to the residence and improvements constructed or to be constructed thereon, but shall not mean or include any common area. If building sites are created pursuant to Article IX, Sections 8 and 9, herein, the term "Lot" or "Building Plot" shall also thereafter mean and refer to any building site so created.

Section 4. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to the surface estate in any Lot or tract of land which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. “Common Properties” shall mean and refer to all those areas of land within the Properties as shown on the Subdivision Plat, except the Lots and the public streets shown thereon, together with such other property as the Association may, at any time or from time to time, acquire by purchase or otherwise, subject, however, to the easements, limitations, restrictions, dedications and reservations applicable thereto by virtue hereof and/or by virtue of the Subdivision Plat, and/or by virtue of prior grants or dedications by Declarant or Declarant's predecessors in title. References herein to “the Common Properties in The Subdivision” shall mean and refer to Common Properties as defined respectively in The Declaration and all Supplemental Declarations.

Section 6. “Common Facilities” shall mean and refer to all existing and subsequently provided improvements upon or within the Common Properties, except those as may be expressly excluded herein. Also, in some instances, Common Facilities may consist of improvements for the use and benefit of the Owners of the Lots in the Properties, as well as other Owners in the subdivision, constructed on portions of one or more Lots or on acreage owned by Declarant (or Declarant and others) which has not been brought within the scheme of The Declaration. By way of illustration, Common Facilities may include, but not necessarily be limited to, the following: structures for recreation, storage or protection of equipment; fountains; statuary; sidewalks; common driveways; landscaping; guardhouses; esplanades; lake(s) and greenbelt areas surrounding such lake(s); any perimeter walls or fences abutting Memorial Drive installed by Declarant on any area owned by Declarant as of the date hereof and in the vicinity of the Property; and other similar and appurtenant improvements. References herein to “the Common Facilities (any Common Facility) in The Subdivision” shall mean and refer to Common Facilities as defined respectively in The Declaration and all Supplemental Declarations.

Section 7. “Supplemental Declaration” shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions bringing additional property within the scheme of the Declaration under the authority provided in The Declaration. References herein (whether specific or general) to provisions set forth in “all (any) Supplemental Declarations” shall be deemed to relate to the respective properties covered by such Supplemental Declarations.

Section 8. “Easements” shall mean and refer to the various utility or other easements of record, those shown on the map or plat of the subdivision and such other easements as are created or referred to in this Declaration.

Section 9. “The Declaration” shall mean and refer collectively to the covenants, conditions, restrictions, reservations, easements, liens and charges imposed by or expressed in this Declaration.

Section 10. “Board of Directors” and “Board” shall mean and refer to the duly elected Board of Directors of the Association.

Section 11. “Member” shall mean and refer to every person or entity who holds membership in the Association.

Section 12. “Conveyance” shall mean and refer to conveyance of a fee simple title to a lot.

Section 13. “Declarant” shall mean and refer to LANDAR CORPORATION and HARRY REED & CO., INC., the declarants herein, their respective successors and assigns (i) if such successors or assigns should acquire more than one Lot from LANDAR CORPORATION and HARRY REED & CO., INC. and (ii) if such successors or assigns are designated in writing by LANDAR CORPORATION and HARRY REED & CO., INC., as a successor or assign of all or part of the rights of LANDAR CORPORATION and HARRY REED & CO., INC.

set forth in this Declaration; provided, however, that in the event WELLS FARGO REALTY ADVISORS INCORPORATED, its successors and assigns, should become a declarant by virtue of foreclosure or any other proceeding in lieu of foreclosure, such written designation by LANDAR CORPORATION and HARRY REED & CO., INC. shall not be necessary.

Section 14. “Assessable Tract” shall mean and refer to any Lot from and after (i) the date on which paved public street access and water, sanitary sewer service and permanent electric service have been extended thereto, and which Lot has been staked, or (ii) the date on which a Living Unit on such Lot is first occupied as a residence.

Section 15. “Living Unit” shall mean and refer to any improvements on a Lot which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons maintaining a common household.

## ARTICLE II

### MEMORIAL THICKET HOMEOWNERS ASSOCIATION, INC.

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality hereof, the Association shall also discharge those functions necessary to the general maintenance of the Properties. The Board of Directors of the Association shall be empowered to oversee the activities of the Association to such an extent as they may take whatever reasonable action they, in their sole discretion, deem necessary to provide for the upkeep and aesthetic appearance of the Properties for the common benefit of all the members of the Association.

Section 2. Membership. Every person or entity who is a record Owner of any of the Properties which are subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association.

Other lands may hereafter be annexed into the jurisdiction of the Association in the manner herein described. If annexed, the Owners of Lots in each future section so annexed, as well as all Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Community Properties that may become subject to the jurisdiction of the Association as a result of such annexation, and the facilities thereon, and shall be entitled to the use and benefit of the maintenance fund, hereinabove set forth, provided that each future section must be impressed with and subject to an annual maintenance charge imposed hereby, and further, such sections shall be made by recorded restrictions subject to the jurisdiction of the Association. Such additional stages of development may be annexed in accordance with the provisions of Article IX, Section 6, hereinbelow. Upon a merger or consolidation of the Association with another Association, the Association's properties, rights and obligations may be transferred to another surviving or consolidated Association, or alternatively, the properties, rights, and obligations of another Association may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association shall administer the Covenants and Restrictions established by this Declaration, together with the Covenants and Restrictions applicable to the properties of the other Association as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the Covenants established by this Declaration.

Section 3. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and each shall be entitled to one vote for each lot. When more than one person holds an interest in any Lot, all such

persons shall be members. The vote of such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one lot.

Class B. Class B members shall be the Declarant herein, as such term is defined in Article 1, Section 13, who shall be entitled to nine (9) votes for each Lot owned.

Class B membership shall cease and be converted to Class A membership on the happenings of either of the following two events, whichever occurs earlier:

- (A) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (B) The tenth anniversary date of this Declaration.

**Note: All lots are now Class A Members**

Section 4. Non-Profit Corporation. MEMORIAL THICKET HOMEOWNERS ASSOCIATION, INC., a non-profit corporation, has been organized, and all duties, obligations, benefits, liens, and rights hereunder in favor of the Association shall vest in said corporation.

Section 5. By-Laws. The Association may make whatever rules or by-laws it may choose to govern the organization, provided that same are not in conflict with the terms and provisions hereof.

Section 6. Members' Easements of Enjoyment. Subject to the provisions of Section 7 below, every Member shall have a common right and easement of enjoyment in the Common Properties, and such right and easement shall be appurtenant to and shall pass with the title to every Assessable Tract.

Section 7. Extent of Members' Easements. The rights and easements of enjoyment created hereby in favor of the Members shall be subject to the rights and easements now existing or hereafter created in favor of Declarant or others as referred to or provided for in this Declaration, and shall also be subject to the following provisions:

- (a) The Association shall have the right to borrow money and with the assent of Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes of both Classes of Members to mortgage the Common Properties.
- (b) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Properties against foreclosure of any such mortgage.
- (c) The Association shall have the right to suspend the enjoyment rights of any Member for any period during which any assessment or other amount owed by such Member to the Association remains unpaid.
- (d) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Properties, and to suspend the enjoyment rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.
- (e) The Association shall have the right to assess and collect the assessments provided for herein and to charge reasonable admission and other fees for the use of any recreational facilities which are a part of the Common Properties.

(f) The right of resident owners or occupants of dwellings within any area owned by Declarant as of the date hereof and in the vicinity of the Property, to use the Common Properties, together with all facilities now or hereafter located thereon.

(g) The Association shall have the right to dedicate or convey all or any part of the Common Properties, or interests therein, to any public authority for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or conveyance shall be effective unless an instrument agreeing to such dedication or conveyance signed by Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes of both Classes of Members has been recorded.

(h) The Association shall have the right to rent or lease any part of the Common Properties for the operation (for profit or otherwise) of any service activity intended to serve a substantial number of residents in the Properties, such as, but not limited to, child care nurseries, with the consent of Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes of both Classes of Members voting in person or by proxy, at a meeting duly called for this purpose.

(i) The Association shall have the right, but not the obligation, to contract on behalf of all Assessable Tracts, for garbage and rubbish pickup, and to charge the Owner of each Assessable Tract for his pro rata share of the cost thereof, such pro rata share to be determined by dividing the number of Assessable Tracts being served into the total cost of providing such garbage and rubbish pickup. If the Association so elects, the charge to each Owner for garbage and rubbish pickup shall be in addition to the assessments described in Article III hereof.

### ARTICLE III

#### COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Building Plot owned within the Properties, hereby covenants, and each Owner of any Building Plot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing Vendor's Lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them, but shall be secured by the continuing lien referred to above.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to improve, beautify, maintain, manage and operate the Common Properties, and to pay taxes and insurance premiums thereon, and to promote the recreation, health, safety, convenience, and welfare of the Members, such benefits to include, by way of illustration but not limitation, providing patrol or watchman service, providing and maintaining street lighting, maintaining and repairing any perimeter walls or fences abutting Memorial Drive installed by Declarant, maintaining and servicing any lake(s) and greenbelt areas surrounding the same, and the appurtenant mechanical and electrical fixtures, plumbing equipment and drainage systems, fogging for insect control, providing garbage and rubbish pickup, enforcing the provisions contained in this Declaration, employing at the request of the Architectural Control Committee one or more architects, engineers, attorneys, or other consultants, for the purpose of advising such Committee in carrying out its duties and authority as set forth in the opinion of the Board of Directors of the Association, for the maintenance and/or improvement of the Common Properties or for the benefit of

the Members, the foregoing uses and purposes being permissive and not mandatory, and the decisions of the Board of Directors of the Association being final as long as made in good faith and in accordance with the By-Laws of the Association and governmental laws, rules and regulations.

**Section 3. Annual Assessments.** The Association, by action of its Board of Directors, shall levy annual assessments against the Assessable Tracts to obtain funds reasonably anticipated to be needed for purposes stated in Section 2 hereinabove, including reasonable reserves for contingencies and for capital improvements, replacements, and repairs; provided, the annual assessments shall be levied on a uniform basis as follows:

(a) The amount of the annual assessment for a Lot which has or has had a Living Unit thereon occupied as a residence shall not exceed \$475.00 except that for any calendar year after the calendar year 1979, the Association may increase said maximum amount of the annual assessment for a Lot which has or has had a Living Unit thereon occupied as a residence, but if any such change increases the maximum amount which can be assessed against a Lot which has or has had a Living Unit thereon occupied as a residence to more than \$522.50 per year or more than 110% of the amount assessed in the preceding calendar year, whichever is greater, the change must be approved by Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes of both Classes of Members. The amount actually assessed against a Lot which has or has had a Living Unit thereon occupied as a residence for any calendar year is referred to in (b) below as the "Base Assessment Sum" for such year.

(b) The amount assessed each year against a Lot which has never had a Living Unit thereon occupied as a residence, but which is an Assessable Tract because paved public street access and water, sanitary sewer service and permanent electric service have been extended thereto, and because the lot has been staked shall be one-tenth (1/10) of the Base Assessment Sum for such year until December 31, 1984, and from and after January 1, 1985 the amount assessed against such Lot which has never had a Living Unit occupied as a residence, but which is an Assessable Tract, shall be one hundred percent (100%) of the Base Assessment Sum for 1985 and each year thereafter.

**(As amended pursuant to the Amendment of Covenants, Conditions and Restrictions for Memorial Thicket, Section One recorded under county clerk's file number K211461, September 19, 1985.)**

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Section 3 hereinabove, the Association may levy against the Assessable Tracts in any calendar year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, purchase, acquisition, repair, or replacement of a capital improvement of the Association, including necessary fixtures and personal property related thereto, but any such assessment must be approved by Members entitled to cast not less than two-thirds (2/3) of the aggregate of the votes cast by both Classes of Members. The special assessment against every Assessable Tract shall be same as the special assessment against every other assessable tract.

**Section 5. Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence on each Assessable tract on the first day of the calendar month after it becomes an Assessable Tract. The amount of the annual assessment on each such Assessable Tract for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment on such Assessable Tract provided for in Section 3 hereof as the remaining number of months in the year bears to twelve, and shall be due and payable on the day such Assessable Tract becomes an Assessable Tract. After the first year, the annual assessment on such Assessable Tract for such calendar year shall be due and payable on the first day of January in said year. The due date of any special assessment under Section 4 hereof shall be fixed in the resolution of the Members of the Association authorizing or approving such assessment.

Section 6. Duties of the Board of Directors. The Board of Directors of the Association shall determine the amount to be levied as the annual assessment against each Assessable Tract for each calendar year, subject to the criteria and limitation set out in Section 3 hereof. The Board of Directors of the Association shall cause to be prepared a roster of the Assessable Tracts showing the amount of each assessment, which roster shall be kept in the office of the Association and shall be open to inspection by any Owner. The Association shall upon demand at any time furnish to any Owner a certificate in writing signed by an officer of the Association setting forth whether or not there are any unpaid assessments against said Owner's property. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid, as to any third party who in good faith relies thereon to his economic detriment.

Section 7. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Building Plot. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a deed to a Building Plot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Article 3810 of the Texas Revised Civil Statutes and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all Building Plot owners. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Building Plot. (**See Payment Plan Policy, Dec 28, 2011**)

Section 8. Subordination of the Lien to Mortgages. The lien securing any assessment provided for herein shall be subordinate to the lien of any mortgage(s) now or hereafter placed upon the property subject to the assessment for the purpose of securing indebtedness incurred to purchase or improve such property; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, a foreclosure by trustee's sale under a deed of trust, or a conveyance in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessment thereafter becoming due, nor from the lien securing any such subsequent assessment. In addition to the automatic subordination provided for above, the Association, in the discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine.

Section 9. Exempt Property. The assessments and liens created in this Article III shall apply only to the Assessable Tracts, and the remainder of the property in the Properties shall not be subject thereto or entitled to the rights granted to Members in Article II.

## ARTICLE IV

### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Tenure. The "Architectural Control Committee" shall mean and refer to ROBERT L. FARRAR, JR., HARRY W. REED and DAN W. PUGH, all of Harris County, Texas, and their successors. The persons serving on the Architectural Control Committee, or their successors, shall serve until such time as all Lots subject to the jurisdiction of the Association have Living Units thereon occupied as residences, at which time the Architectural Control Committee shall resign and thereafter its duties shall be fulfilled and its powers exercised by the Board of Directors of the Association. (**note: the Board of Directors of the Association became responsible for the duties of the Architectural Control Committee in 1985**) In the event of the death or resignation of any person serving on the Architectural Control Committee, the remaining person(s) serving on the Committee shall designate a successor, or successors, who shall have all

of the authority and power of his or their predecessor(s). A majority of the Architectural Control Committee may designate someone serving on the Committee to act for it. No person serving on the Committee shall be entitled to compensation for services performed pursuant to this Article IV. However, the Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the Committee in carrying out its duties hereunder; and the Association shall pay such consultants for such services as they render to the Committee. In the event that WELLS FARGO REALTY ADVISORS INCORPORATED, its successors and assigns, should become a declarant by virtue of foreclosure or any other proceeding in lieu of foreclosure, WELLS FARGO REALTY ADVISORS INCORPORATED shall have the right to abolish the above named Architectural Control Committee, and thereafter the duties of the Architectural Control Committee shall be exercised by a committee designated by WELLS FARGO REALTY ADVISORS INCORPORATED, its successors and assigns, which committee shall serve until such time as all Lots subject to the jurisdiction of the Association have Living Units thereon occupied as residences.

**Section 2. Approval of Plans.** No buildings or other improvements, including swimming pools, streets, driveways, sidewalks, drainage facilities, landscaping, fences, walks, fountains and statuary located in the front and side yards, outdoor lighting and signs, shall be commenced, constructed, erected, placed, or maintained in the Subdivision, nor shall any exterior addition to or alteration therein be made, unless and until (i) a preliminary site plan showing all uses and dimensions, the location of buildings, swimming pools, entries, streets, driveways, parking areas, pedestrian ways, and storage areas, and a schematic plan for the landscaping and lighting of the property, have been submitted to and approved in writing by the Architectural Control Committee, and thereafter (ii) the final working plans and specifications for the work shown on the preliminary site plan and the schematic plan have been submitted for approval by the Architectural Control Committee as to compliance with this Declaration and as to harmony of surrounding structures, walks, and topography. The final working plans and specifications shall not be commenced until the preliminary site plan and the schematic plan have been so approved. The final working plans and specifications shall specify, in such form as the Architectural Control Committee may reasonably require, structural, mechanical, electrical, and plumbing details and the nature, kind, shape, height, exterior color scheme, materials, and locations of the proposed improvements or alterations thereto. The Architectural Control Committee shall have the right, free of charge, to retain one (1) copy of the final working plans and specifications. In the event the Architectural Control Committee fails to approve or disapprove the preliminary site plan and schematic plan within ten (10) working days after they have been submitted to it, or thereafter fails to approve or disapprove the final working plans and specifications within ten (10) working days after they have been submitted to it, approval thereof will not be required and the provisions of this Section 2 will be deemed to have been fully complied with. Without limitation of the powers herein granted, the Architectural Control Committee shall have the right to specify a limited number of acceptable exterior materials and/or finishes that may be used in the construction, alteration or repair of any improvement. For purposes of this Article IV, Section 2, "schematic plan" shall mean that certain plan which has been submitted or is to be submitted by Owner to the applicable governmental authority for approval in connection with the issuance of a building permit. Where an Owner has neglected to submit preliminary and/or final working plans and specifications for approval, failure of the Architectural Control Committee to exercise the powers granted by this Article IV shall never be deemed a waiver of the right to do so either before or after a building or other improvement in the Subdivision, or any exterior addition to or alteration therein, has been completed. **(See Foundation Policy, Dec 28, 2011)**

Where not otherwise specified herein, the Architectural Control Committee also shall have the right to specify requirements for each building site as follows: minimum set-backs; driveway access to adjacent streets; the location, height and extent of fences, walls or other screening devices (provided that no fence shall exceed a height of six (6') feet); and the orientation of structures with respect to streets, walks and structures on adjacent property. There shall be no chain link fencing except as may be utilized by builders with the approval of the Architectural Control Committee for temporary storage of building materials and supplies during the construction phase. No roofing Material shall be allowed other than tile or wood shingles which shall meet standards prescribed by the Architectural Control Committee. **(See Roofing Materials Policy, Dec 28, 2011)** The surface materials used in the construction of driveways and front

sidewalks will consist solely of concrete and/or brick unless otherwise approved by the Architectural Control Committee. No builder or owner shall be permitted to substantially duplicate the exterior elevation of any residence in the Subdivision, whether such residence be under construction or in a state of completion. The decision of the Architectural Control Committee regarding whether or not substantial duplication does indeed exist shall be final and conclusive upon all parties. The Architectural Control Committee shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or meet its minimum construction requirements or architectural design requirements or that might not be compatible, in its judgment, with the overall character and aesthetics of the Property.

Each Living Unit shall be equipped, at Owner's sole expense, with a central and local burglar, fire and emergency alarm system. Said alarm system shall be connected to the master alarm system serving Memorial Thicket, Section One. The fire alarm system shall include a combination of smoke detectors and rate of rise detectors. The minimum security system shall include, but not necessarily be limited to, the following:

- (a) One (1) master control panel with rechargeable standby battery, automatic bell cutoff and reset, and entry/exit delay.
- (b) One (1) inside alarm bell normally installed inside return air grill.
- (c) One (1) bell pulser module which provides continuous ringing for burglary and pulsates for fire.
- (d) One (1) inside keyed remote control station for arming or disarming alarm system.
- (e) One (1) emergency or probe alarm switch. This switch is normally installed in the master bedroom and is active 24 hours per day.
- (f) One (1) smoke detector to be installed in central hallway (at top of stairs where applicable).
- (g) One (1) rate of rise detector in attic (U.L. approved to cover 2,500 square feet).
- (h) Two (2) contact switches for doors or two (2) heat detectors/or any combination thereof totaling two devices.
- (i) One (1) digital dialer communication to transmit one of four different alarm messages to guard house or after a thirty second delay with no response, to a central commercial security system as may be approved by the Architectural Control Committee.

**Section 3. Approved General Contractors.** No construction of a building, structure, fence, wall, or other improvement shall be commenced in the Property until the general contractor to perform such construction shall have been approved in writing by the Architectural Control Committee, which approval shall not be unreasonably withheld. In the event the Committee fails to approve or disapprove a general contractor within ten (10) working days after his name is submitted to it, approval will not be required, and the provisions of this Section 3 will be deemed to have been fully satisfied.

**Section 4. No Liability.** Neither Declarant, the Association, Board of Directors, or the Architectural Control Committee or the members thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Control Committee for approval agrees, by submission

of such plans and specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, Board of Directors, the Architectural Control Committee, or any of the members thereof to recover any such damage.

**Section 5. Rules and Regulations.** The Architectural Control Committee may from time to time, in its sole discretion, adopt, amend and repeal rules and regulations interpreting and implementing the provisions hereof. **(See Rain Barrel Policy, Solar Energy Device Policy and Composting Devices Policy, Dec 28, 2011)**

**Section 6. Variances.** Where circumstances, such as topography, location of property lines location of trees, or other matters require, the Architectural Control Committee, by the vote or written consent of a majority of the members thereof, may allow reasonable variances as to any of the covenants, conditions or restrictions contained in this Declaration under the jurisdiction of such committee pursuant to this Article IV, on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property. It is further provided, however, that the Declarant herein hereby reserves the right of approval or disapproval of all variances which may affect building setback lines, Lot area and structure locations.

## ARTICLE V

### EASEMENTS

**Section 1. General.** The rights and duties of the Owners of Lots within the Property with respect to sanitary sewer, water, electricity, gas, telephone, and cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer and/or water house connections or electricity, gas or telephone and cable television lines or drainage facilities are installed within the Property, which connection lines or facilities or any portion thereof, lie in or upon Lots owned by any party other than the Owner of a Lot served by said connections, lines or facilities, such Owners of Lots served shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lots within the Property in or upon which said connections, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as to when the same may be necessary as set forth below.

(b) Wherever sanitary sewer and/or water house connections or electricity, gas, telephone or cable television lines or drainage facilities are installed within the Property, which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections which service his Lot.

**Section 2. Reservation of Easements.** Easements over the Lots and Common Areas for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities are hereby reserved by Declarant, together with the right to grant and transfer same.

**Section 3. Surface Areas of Utility Easements.** Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat. With the exception of certain Lots located on the perimeter of the subdivision, underground electric, gas and telephone service shall be available to the remainder of the Lots in the subdivision. For so long as such underground service is maintained, the electric service to each Lot shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle, alternating current. Easements for the underground service may be crossed by driveways, walkways, patios, brick walls and fences, provided the Declarant or Builder makes prior arrangements with the utility companies furnishing electric, gas and telephone service and provides and installs any necessary conduit of approved type and size under such driveways, walkways, patios, brick

walls or fences prior to construction thereof. Such easements for the underground service shall be kept clear of all other improvements, and neither grantor nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways, walkways, patios, brick walls or fences, providing conduit has been installed as outlined above) of the Owner located on the land covered by said easements.

**Section 4. Public Streets.** All Lots within the subdivision shall abut and have access to a public street. Public street rights-of-way are shown on the recorded plat of Memorial Thicket, Section One.

**Section 5. Emergency and Service Vehicles.** An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and other service vehicles to enter upon the Common Area, including but not limited to private streets, in the performance of their duties and further, an easement is hereby granted to the Association, its officers, agents, employees, and management personnel to enter the Common Area to render any service.

**Section 6. Universal Easement.** Each Lot and its Owner within the Properties is hereby declared to have an easement, and the same is hereby granted to Declarant, over all adjoining Lots and Common Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement of shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to the Lot being serviced and shall pass with each conveyance of said Lot.

**Section 7. Public Easement.** There is hereby reserved to Declarant, its successors and assigns, an easement for public ingress and egress over any public pedestrian pathways. This easement shall not imply any right of public use of the Common Area or improvements thereon, owned by the Association.

**Section 8. Audio and Video.** In the event that audio and video communication services and utilities are made available to any said Lots by means of an underground coaxial cable system, the company furnishing such services and facilities shall have a two foot (2') wide easement along and centered on the underground wire or cable when and as installed by said company from the utility easement nearest to the point of connection on the permanent improvement or structure constructed, or to be constructed upon said Lot, and in a direct line from said nearest utility easement to said point of connection.

**Section 9. Underground Electric Distribution System.** With the exception of an overhead electric distribution system serving certain Lots located on the perimeter of the subdivision, an underground electric distribution system will be installed in that part of Memorial Thicket, Section One, designated herein as "Underground Residential Subdivision", which underground service area embraces the remainder of the Lots which are platted in Memorial Thicket, Section One. In the event that there are constructed within the Underground Residential Subdivision structures containing multiple dwelling units such as townhouses, duplexes, or apartments, then the underground service area embraces all of the dwelling units involved. The Owner of each Lot containing a single dwelling unit, or, in the case of a multiple dwelling unit structure, the Owner/Developer shall, at his or its own costs, furnish, install, own and maintain (all in accordance with the requirements of the local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point

designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Developer has, either by designation on the plat of the Subdivision or by separate instrument, granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, or, in the case of a multiple dwelling unit structure, the Owner/Developer shall, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each dwelling unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 240/120 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Developer (except for certain conduits, where applicable, and except as hereinafter provided) upon Developer's representation that the Underground Residential Subdivision is being developed for residential dwelling units, including homes, and, if permitted by the restrictions applicable to such subdivision, townhouses, duplexes and apartment structures, all of which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent and all of which multiple dwelling unit structures are wired so as to provide for separate metering to each dwelling unit. Should the plans of the developer or the lot owners in the Underground Residential Subdivision be changed so as to permit the erection therein of one or more mobile homes, Company shall not be obligated to provide electric service to any such mobile home unless (a) Developer has paid to the Company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision or (b) the Owner of such affected lot, or the applicant for service to any mobile home, shall pay to the Company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot or dwelling unit over the cost of equivalent overhead facilities to serve such lot or dwelling unit, plus (2) the cost of rearranging, and adding any electric facilities serving such lot, which arrangement and/or addition is determined by Company to be necessary.

The provisions of the two preceding paragraphs also apply to any future residential development in Reserve(s) shown on the plat of Memorial Thicket, Section One, as such plat exists at the execution of the agreement for underground electric service between the electric company and Developer or thereafter. Specifically, but not by way of limitation, if a lot owner in a former Reserve undertakes some action which would have invoked the above per front lot foot payment if such action had been undertaken in the Underground Residential Subdivision, such owner or applicant for service shall pay the electric company \$1.75 per front lot foot, unless Developer has paid the electric company as above described. The provisions of the two preceding paragraphs do not apply to any future non-residential development in such Reserve(s).

## ARTICLE VI

### UTILITY BILLS, TAXES AND INSURANCE

Section 1. Obligation of the Owners. Owners' utility bills, taxes and insurance shall be governed by the following:

- (a) Each Owner shall have his separate electric, gas (unless total electric dwelling) and water meter and shall directly pay at his own cost and expense for all electricity, gas, water, sanitary sewer service, telephone service, cable television and other utilities used or consumed by him on his Lot.

(b) Each Owner shall directly render for taxation his own Lot and improvements thereon, and shall at his own cost and expense directly pay all taxes levied or assessed against or upon his Lot and his improvement and property thereon.

(c) Each Owner shall be responsible at his own cost and expense for his own property insurance on the building and contents of his own residence, and his additions and improvements thereto, including decorations, furnishings, and personal property therein; and also for his personal liability not covered by liability insurance for all Owners which may be obtained by the Association as part of the common expense in connection with the Common Property.

**Section 2. Obligation of the Association.** The Association shall have the following responsibility regarding utility bills, taxes and insurance:

(a) The Association shall pay as a common expense of all Owners, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Common Property or any part thereof.

(b) The Association shall tender for taxation and, as part of the common expenses of all Owners, shall pay all taxes levied or assessed against or upon the Common Property and the improvements and the property appertaining thereto.

(c) The Association shall have authority to obtain and continue in effect as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities in the Common Property and the contents thereof and the Association against the risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, in such limits as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the Common Property.

(d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association as hereinabove provided shall be paid out of the maintenance fund as a common expense of all Owners and shall be a part of the maintenance assessment.

## ARTICLE VII

### MAINTENANCE AND REPAIRS

**Section 1. By the Owners.** It shall be the duty, responsibility and obligation of each Owner at his own cost and expense to care for, maintain and repair the exterior and interior of his residence house and improvements on his Lot and the fixtures, appliances, equipment and other appurtenances thereto and also including the private driveway appurtenant to his residence house, sidewalks and fences which are appurtenant to his residence house and situated on his Lot. The Association shall have no duty or obligation to any Owner in this regard.

**Section 2. By the Association.** The Association, as a common expense of all Owners, shall perpetually care for, maintain and keep in good repair the Common Property and all parts thereof, including but not limited to, landscaped lawns, esplanades, parking areas and improvements and facilities owned by the Association, including but not limited to those Common Facilities specifically mentioned in Section 6 of Article I hereinabove, except that it shall be the obligation of each Owner, and not the obligation of the

Association, to pay for the cost of repair and maintenance of private driveway, sidewalk, and fence or fences which are appurtenant to his residence house.

## ARTICLE VIII

### RESTRICTIONS OF USE

Section 1. All buildings, structures, and other improvements erected, altered, or placed in the Property shall be of new construction, and no structure of a temporary character, trailer, mobile home, tent, shack, garage, barn, or outbuilding shall be used in the Subdivision at any time as a residence, either temporarily or permanently. Unless the Architectural Control Committee otherwise agrees in writing, the exterior finish or construction of any Living Unit shall be at least fifty-one per cent (51%) brick, stone, or other masonry; in computing such percentage, roof areas shall be excluded, but attached garages, porches, and other structures constituting part of the Living Unit proper shall be included. No building shall be erected, altered or permitted to remain on any single Lot, other than one single-family residential dwelling with approved servants' quarters, and a private garage and/or carport for not less than two (2) cars nor more than three (3) cars; provided, that in addition to an attached garage, a carport may be attached to said garage for not more than two (2) cars. The design and location of such carport to be subject to prior written approval of the Architectural Control Committee. Any servants' quarters which may be constructed on any Lot shall not be used for rental purposes, and may be used only by servants who are employed in the dwelling erected upon the same Lot where such quarters are located, or by members or guests of the family occupying the dwelling on said Lot. No part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purposes.

Section 2. No nuisance shall ever be erected, placed, or suffered to remain upon any Lot in the Property and no Owner of or resident on any Lot in the Property shall use the same so as to endanger the health or disturb the reasonable enjoyment of any other Owner or resident. The Association is hereby authorized to determine what constitutes a violation of this restriction.

Section 3. No sheep, goats, horses, cattle, swine, poultry, dangerous animals (the determination as to what is a dangerous animal shall be in the sole discretion of the Association), snakes or livestock of any kind shall ever be kept in the Subdivision except that dogs, cats or other common household pets (not to exceed a total of two animals) may be kept by the Owner or tenant of any Living Unit, provided they are not kept for any commercial purpose.

Section 4. No trash, rubbish, garbage, manure, or debris of any kind shall be kept or allowed to remain on any Lot. The Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense, and prior to such removal all such prohibited matter shall be placed in sanitary refuse containers with tight fitting lids in an area adequately screened by planting or fencing so as not to be seen from neighboring Lots. Reasonable amounts of construction materials and equipment may be stored upon a Lot for reasonable periods of time during the construction of improvements thereon.

Section 5. No oil or natural gas drilling, oil or natural gas development, or oil refining, quarrying, or mining operations of any kind, no oil, natural gas or water wells, tanks, tunnels, mineral excavations or shafts, and no derricks or other structures for use in boring for oil, natural gas, minerals or water shall be erected, maintained or permitted in the Subdivision.

Section 6. No privy, cesspool or septic tank shall be placed or maintained in the Property.

Section 7. No boat, trailer, recreation vehicle, camping unit, bus, truck or self-propelled or towable equipment or machinery of any sort shall be permitted to park on any Lot except in an enclosed structure, except that (i) during the construction of improvements on a Lot, necessary construction vehicles may be

parked thereon for and during the time of necessity therefor, and (ii) this restriction shall not apply to automobiles in good repair and attractive condition, provided that any such automobiles are parked on an improved driveway which has been approved by the Architectural Control Committee.

Section 8. No clothing or other materials shall be aired or dried in the Property except in an enclosed structure.

Section 9. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only after 6:00 A.M. and before 9:00 P.M.

Section 10. Without the prior written authorization of the Architectural Control Committee, no television or radio antenna of any sort shall be placed, allowed, or maintained outside a Living Unit or on the exterior of any building or other improvement located on a Lot. (**See Satellite Dish and Antenna Policy, Dec 28, 2011**)

Section 11. All electrical, telephone and other utility lines and facilities which (i) are located on a Lot, (ii) are not within or a part of any building, and (iii) which are not owned by a governmental entity, a public utility company, or the Association, shall be installed in underground conduits or other underground facilities. Lighting fixtures may be installed above ground if approved in writing by the Architectural Control Committee.

Section 12. House numbers and similar matter used in the Property must be harmonious with the overall character and aesthetics of the community and the decision of the Architectural Control Committee that any such matter is not harmonious shall be final. All mailboxes shall be identical in size, color and design, which size, color shall be predetermined by the Architectural Control Committee, and the decision of the Architectural Control Committee in such matter shall be final. (**See Mail Box Policy, Dec 28, 2011**)

Section 13. No fence, wall, tree, hedge or planting shall be maintained in the Property in such manner as to obstruct sight lines for vehicular traffic, from the standpoint of safety.

Section 14. No billboards or other signs may be erected in the Property without the prior written consent of the Architectural Control Committee. Such Committee shall furnish, upon request, a signage manual setting forth the limitations and guidelines for signs, which shall be reasonable in scope and restriction, and shall grant its written approval of signs which satisfy the requirements of such manual. In no event shall the use of flags or banners be permitted in the promotion or sale of any Living Unit in the Property. (**See Signs and Billboards Display Policy, Dec 28, 2011**)

Section 15. The Owner of each Lot shall maintain the same, and the improvements, trees, hedges, and plantings thereon, in a neat and attractive condition. The Association shall have the right, after twenty (20) days' notice to the Owner of any Lot, setting forth the action intended to be taken by the Association, provided at the end of such time such action has not already been taken by such Owner, (i) to mow the grass thereon, (ii) to remove any debris therefrom, (iii) to trim or prune any tree, hedge, or planting that, in the opinion of the Association, by reason of its location or height, or the manner in which it has been permitted to grow, is detrimental to the enjoyment of adjoining property or is unattractive in appearance, (iv) to repair or paint any fence thereon that is out of repair or not in harmony, with respect to color, with fencing on adjacent property, and (v) to do any and all things necessary or desirable in the opinion of the Association to place such property in a neat and attractive condition consistent with the intention of this Declaration. The person who is the Owner of such property at the time such work is performed by the Association shall be personally obligated to reimburse the Association for the cost of such work within ten (10) days after it is performed by the Association, and if such amount is not paid within said period of time, such Owner shall

be obligated thereafter to pay interest thereon at the rate of ten per cent (10%) per annum, and to pay any attorneys' fees and court costs incurred by the Association in collecting said obligation, and all of the same shall be secured by a lien on such Owner's property, subject only to liens then existing thereon.

**Section 16.** The Owner of each Lot shall construct and maintain at his expense a driveway of not less than twelve feet (12') in width from his garage or carport to an abutting street, including the portion in the street easement, and he shall repair at his expense any damage to the street occasioned by connecting his driveway thereto. The Owner of each Lot shall further construct and maintain in his front yard an electric post lamp which shall be automatically controlled by a photoelectric cell. The make, color, design, size and location of such post lamp shall meet specifications predetermined by the Architectural Control Committee. (See **Lamp Posts and Fixtures Policy, May , 2012**)

**Section 17.** No building or Living Unit in the Property shall exceed two (2) stories in height. Furnished attics and/or basements shall not be considered for the purposes of this Section 17 to be separate stories. No Living Unit of one story shall contain less than 2,400 square feet of living area and no Living Unit of more than one story shall contain less than 2,800 square feet of living area (except as otherwise provided by Section 9 of Article IX herein), unless the Architectural Control Committee agrees to the contrary in writing. All computations of living area shall be exclusive of attics, basements, open or screened porches, terraces, patios, driveways, carports and/or garages. Measurements shall be to the face of the outside walls of the living area. (See **Building Size Policy, Dec 28, 2011**)

**Section 18.** As to each Lot in the Property the following building requirements shall apply unless the Architectural Control Committee agrees to the contrary in writing, to-wit:

(a) No building, fence, or other structure (i) shall be placed or built on any Lot nearer to the front lot line or nearer to a side street line than the building lines therefor shown on the Subdivision Plat, or (ii) shall encroach on any easement shown on the Subdivision Plat.

(b) Before the residence constructed on the Lot is completed, the Owner shall construct a sidewalk or such other improved walkway, to be approved by the Architectural Control Committee at least four feet (4') in width from the front door of the residence to the street curb or to the private driveway. In the event that the sidewalk or walkway is constructed from the front door of the residence to the street curb, Owner shall install a twelve foot (12') by four foot (4') landing pad adjacent lengthwise to the street curb; provided, however, that should the landing pad require the removal of any trees, the Architectural Control Committee shall have the authority to waive the installation of such landing pad.

(c) Each residence located on a corner lot shall face the public street having the lesser frontage.

(d) No garage and/or carport shall face the public street on which the residence fronts, unless such garage and/or carport is located at least five feet (5') behind a plane of the residence created by the rear wall of the residence. If the rear wall is in several positions, such wall to be used for the purpose of locating this plane, shall be the wall farthest from the mid-line of the street upon which the residence fronts. The Architectural Control Committee may, in its sole discretion, waive this requirement in writing.

(e) Each garage or carport shall be at least twenty-two feet (22') in length, and shall be at least twenty feet (20') in width.

(f) Private driveways appurtenant to any lots whose front lot lines run in a general North-South direction, shall be located on the North side of such lots; while private driveways appurtenant to any lots whose front lot lines run in a general East-West direction, shall be located on the West side of such lots.

Section 19. Unless the Architectural Control Committee agrees to the contrary in writing, no building on any Lot in the Property shall be located nearer than five feet (5') to an interior line of the Lot, except that the front of a garage or other permitted building located seventy feet (70') or more from the front line of the Lot may be located as near as three feet (3') to an interior side line of the Lot.

Section 20. The Owner of each Lot, as a minimum, shall solid sod with grass the front and side yards of his Lot. The grass shall be of a type and within standards prescribed by the Architectural Control Committee.

Section 21. No tree house shall be permitted on any Lot in the Property without prior written approval of the Architectural Control Committee. No metal storage outbuildings shall ever be erected, placed or maintained upon any Lot in the Property. Any other type of permitted outbuilding must be in keeping with the overall character and aesthetics of the Living Unit located on the Lot. The Architectural Control Committee is hereby authorized to determine what constitutes a violation of this restriction. **(See Pool Cover Policy, Dec 28, 2011)**

Section 22. Notwithstanding the foregoing provisions of this Article VIII, Declarant and its permittees shall have the exclusive right to erect, place and maintain on their respective Lots in the Property such facilities (including but not limited to, offices, storage areas, model units, flags and signs) as in Declarant's sole discretion may be necessary or convenient to improve and/or sell Lots in the Property. **(See Flag Display Policy, Dec 28, 2011)**

## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Incorporation. The terms and provisions of this Declaration shall be construed as being adopted in each and every contract, deed, or conveyance hereafter executed by Declarant conveying all or any part of the land in the Property, whether or not referred to therein, and all estates conveyed therein and warranties of title contained therein shall be subject to the terms and provisions of this Declaration.

Section 3. Amendments. This Declaration may be amended in whole or in part by an instrument executed by the President of the Association when approved by (i) Members entitled to cast not less than ninety percent (90%) of the aggregate of the votes of both Classes of Membership if the amendment occurs within twenty (20) years after the date of this Declaration, or (ii) the Members entitled to cast not less than seventy-five percent (75%) of the aggregate of the votes of both Classes of Membership if the amendment occurs more than twenty (20) years after the date of this Declaration. Following any such amendment, every reference herein to this Declaration shall be held and construed to be a reference to this Declaration as so amended.

Section 4. Amendments by Declarant. The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any

instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by The Declaration, and shall not impair or affect the vested property or other rights of any Owner or his mortgagee.

**Section 5. Books and Records.** The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any member or members will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost. (**See Records Retention Policy and Records Production Policy, Dec 28, 2011**)

**Section 6. Annexation.** Additional residential property and "Common Property" may be annexed to the Properties.

- (a) With the consent of two-thirds (2/3) of each class of members;
- (b) Notwithstanding anything contained in (a) above, additional land within the area described in the attached Exhibit "A" may be annexed from time to time by the Declarant, its successors or assigns, without the consent of other Owners, or their mortgagees, within ten (10) years of the date of recording of this instrument;
- (c) The annexation or addition may be accomplished by the execution and filing for record by the owner of the property being added or annexed of an instrument which may be called "SUPPLEMENTAL DECLARATION" which shall at least set out and provide in substance: the name of the owner of the property being added or annexed who shall be called the "Declarant", the perimeter description of the property being added or annexed which for descriptive purposes may be designated as the second or third, etc., as the case may be, section of MEMORIAL THICKET; the description of the residential areas and of the Common Property of the property being added or annexed and the rights and easements of the Owners in and to the Common Property, that the property is being added or annexed in accordance with the provisions of this Declaration of Covenants, Conditions and Restrictions, and that the property being annexed shall be developed, held, used, sold and conveyed in accordance with and subject to the provisions of this Declaration of Covenants, Conditions and Restrictions; that all of the provisions of the Declaration of Covenants, Conditions and Restrictions shall apply to the property being added or annexed with the same force and effect as if said property were originally included therein as part of the original development; that the property being added or annexed is submitted to the jurisdiction of the Association with the same force and effect as if said property were originally included in this Declaration of Covenants, Conditions and Restrictions as part of the original development; and, such "Supplemental Declaration" may contain such other provisions which are not inconsistent with the provisions of this Declaration of Covenants, Conditions and Restrictions or the general scheme or plan of development of MEMORIAL THICKET as a residential development. Nothing in this Declaration shall be construed to represent or imply that Declarant, its successors or assigns, are under any obligation to add or annex additional property to this residential development.
- (d) At such time as the "Supplemental Declaration" is filed for record as hereinabove provided, the annexation shall be deemed accomplished and the annexed area shall be a part of the Properties and subject to each and all of the provisions of this Declaration of Covenants, Conditions and Restrictions and to the jurisdiction of the Association in the same manner and with the same

force and effect as if such annexed property has been originally included in this Declaration of Covenants, Conditions and Restrictions as part of the initial development.

(e) After additions or annexations are made to the development, all assessments collected by the Association from the Owners in the annexed areas shall be commingled with the assessments collected from all other Owners so that there shall be a common Maintenance Fund for the Properties.

**Section 7. Rights of Mortgagees, Trustees or Lienholders.** No violations of any of these restrictions, covenants or conditions, shall affect or impair the rights of any Mortgagee, Trustee or Lienholder under any mortgage or deed of trust, or the rights of any assignee of any Mortgagee, Trustee or Lienholder under any such mortgage or deed of trust.

**Section 8. Right to Subdivide or Resubdivide.** Prior to the time Declarant parts with title thereto, Declarant shall have the right (but shall never be obligated) to subdivide or resubdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the property in the Property.

**Section 9. Building Sites.** With the written approval of the Architectural Control Committee, the Owner(s) of a group of Lots, each of which is adjacent to one or more of the other Lots in the group, may designate a part of a Lot, or any combination of Lots or portions of Lots, to be a building site or building sites. The front, rear and side lines of the platted Lots affected by any such action, as such lines are designated on the Subdivision Plat, shall be adjusted to conform to the front, rear and side lines of the new building sites for building and other purposes. Improvements, limited to the improvements permitted in Article VIII, Section I hereinabove, may be constructed on any such building site in accordance with the new front, rear and side lines thereof. Each such building site, upon being designated as such by the Owner(s) thereof with the written approval of the Architectural Control Committee, shall thereafter be a Lot for all purposes of this Declaration, except that all future assessments payable by the Owner of a building site comprised of several Lots combined in accordance with this Section 9 will be based upon one assessment for each of the originally platted Lots so combined. No Living Unit of one (1) story constructed on a designated building site in accordance with this Section 9 shall contain less than 3,000 square feet of living area, and no Living Unit of more than one (1) story constructed on a designated building site shall contain less than 3,500 square feet of living area.

**Section 10. No Obligation as to Adjacent Property.** The Property is a part of a larger tract or block of land owned by Declarant. While Declarant may subdivide other portions of its property, or may subject the same to a declaration such as this Declaration, Declarant shall have no obligation to do so, and if Declarant elects to do so, any subdivision plat or declaration executed by Declarant with respect to any of its other property may be the same as or similar or dissimilar to any subdivision plat covering the Property, or any part thereof, or to this Declaration. Some of the tracts shown as "Acreage" on the Subdivision Plat are a part of the other property of Declarant referred to in this Section 10.

**Section 11. Lake Thicket and Surrounding Greenbelt Area, and Dedication of Pathway Easement.** That certain tract of land described in the attached Exhibit "B" (hereinafter referred to as "Lake Thicket"), upon which is located a lake commonly known as Lake Thicket has been conveyed by the Association to the Atlantic Richfield Company (hereinafter referred to as ARCO). In exchange for Lake Thicket, the Association and its members retained or were conveyed the following: an easement of ingress and egress, and a covenant of non-exclusive access to Lake Thicket, fee simple title to that certain tract of land described in the attached Exhibit "D" (hereinafter referred to as the "Mayde Creek Tract") conveyed from Arco to the Association (subject to that certain restriction or requirement to convey a strip of land as identified in that certain Assignment of Contract dated March 11, 1981, by and between Landar Corporation and ARCO, and which will be released by Landar Corporation as evidenced in the attached Exhibit "E") and an easement of ingress and egress and covenant of non-exclusive access to the "jogging

trail" situated on ARCO's property surrounding the lake and Arco's building. (Notwithstanding the foregoing, ARCO has no obligation to retain the jogging trail as a jogging trail.) The easements and covenants are for a period of fifteen (15) years from the date of conveyance of Lake Thicket, and so long thereafter as Lake Thicket remains a lake or Arco owns Lake Thicket, provided that throughout the aforementioned time periods, the Association maintains liability insurance in the face amount of \$1,000,000 per occurrence for the purpose of indemnifying and holding ARCO harmless to the extent of the policy limits from any and all liability and damages associated with injuries incurred by the Association's members and said members' family members and guests which are proximately caused by access to and use of Lake Thicket and/or the jogging trail, except for such injuries or damages proximately caused by the sole negligence of ARCO. Furthermore, throughout the aforementioned time periods, the rights, easements and covenants with respect to Lake Thicket and the jogging trail shall be subject to the rights of ARCO to establish reasonable rules and regulations regarding Members' use of same. The aforementioned Mayde Creek Tract, the Lake Thicket easement and covenant and the jogging trail easement and covenant shall hereinafter be collectively referred to as the \*Lake Thicket Tract" and shall be deemed to be part of the Common Properties subject to the provisions of this Declaration and this section as hereinafter provided. The provisions of this Declaration shall then apply to the Lake Thicket Tract with the same force and effect as if said tract had been included therein as part of the original development, and the Lake Thicket Tract shall then be submitted to the jurisdiction of the Association. The rights and easements to be created in favor of the Members of the Association with respect to the Lake Thicket Tract, and in particular with respect to the use and enjoyment of the Lake, the jogging trail and Mayde Creek Tract, shall be subject to the rights of the Association to establish reasonable fees, rules and regulations governing the Members' use and enjoyment of same, and shall further be subject to right of any present or future owners or occupants of residential units within any area owned by Declarant as of the date hereof and in the vicinity of the Lake Thicket Tract to use the Common Properties, together with the facilities now or hereafter located thereon, which right is hereby reserved by Declarant on behalf of such present and future owners or occupants.  
**(As amended pursuant to the Amendment of Declaration of Covenants, Conditions and Restrictions for Memorial Thicket, Section One recorded under county clerk's file number L598355, March 28, 1988.)**

That certain strip of land described and described in Exhibit "C" attached is hereby perpetually dedicated, established and set aside as a non-exclusive easement for pedestrian and bicycle traffic only, for the common use, benefit and enjoyment of the Owners and/or occupants of Lots which form a part of the Properties, to serve the Properties as a pathway for access, ingress and egress to and from the Lake Thicket Tract. No motorized vehicular traffic of any kind whatsoever shall be permitted to use such pathway under any circumstances.

**Section 12. Extension of Walkwood Drive.** In the event Declarant should elect to annex all or any part of that certain tract of land described in Exhibit "A" in accordance with the provisions of Section 6 of Article IX hereof, Declarant hereby reserves unto itself the right, but not the obligation, to extend Walkwood Drive in a northerly direction through, over and across Lot 44, Block 2 of Memorial Thicket, Section One, in order to provide access, ingress and egress between Memorial Thicket, Section One and the area described in Exhibit "A" attached hereto. Owners and their mortgagees, if any, agree to join with Declarant in the execution of any future platting which may be necessary to accomplish the extension of Walkwood Drive should such extension be deemed necessary or desirable by Declarant, and should such joinder be required by the applicable governmental regulatory authorities.

**Section 13. Duration.** This Declaration shall remain in full force and effect a term of thirty (30) years from the date this Declaration is recorded in the Office the County Clerk of Harris County, Texas, after which time this Declaration shall be extended automatically for successive periods of ten (10) years each unless and until an instrument signed by the Members entitled to cast no less than three-fourths (3/4) of the aggregate of the votes of both Classes of Membership has been filed for record in the Office of the County Clerk of Harris County, Texas, agreeing to terminate this Declaration. Such an instrument so filed

for record shall become effective on the date stated therein or one (1) year after it is so filed for record, whichever is the later date.

Section 14. Enforcement. The terms and provisions of this Declaration shall run with and bind the land in the Property, and shall inure to the benefit of and be enforceable by Declarant, the Association, or the Owner of any Lot, and by their respective legal representatives, heirs, successors and assigns. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating or threatening to violate any term or provision hereof, to enjoin or restrain violation or to recover damages, and against the property to enforce any lien created by this Declaration, and failure of Declarant, the Association, or any Owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter.

Section 15. Severability. Invalidation of any term or provision of this Declaration by judgment or otherwise shall not affect any other term or provision of this Declaration, and this Declaration shall remain in full force and effect except as to any terms and provisions which are invalidated.

Section 16. Gender and Grammar. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

Section 17. Titles. The titles of this Declaration and of Articles and Sections contained herein are for convenience only and shall not be used to construe, interpret or limit the meaning of any terms or provisions contained in this Declaration.

Section 18. Successors in Title. The terms and provisions of this Declaration shall apply to, be binding upon, and inure to the benefit of Declarant and the Association and their respective successors and assigns.

IN WITNESS WHEREOF, this Declaration is executed this 18th day of April, A. D., 1979.

ATTEST:

/s/ Judith J. Marshall  
Secretary

LANDAR CORPORATION

By: /s/ Robert L. Farrar, Jr.  
Vice President

ATTEST:

/s/ Alfred C. Hermann  
Secretary

HARRY REED & CO., INC.

By: /s/ Harry W. Reed  
President

THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned, a Notary Public In and for said County and State, on this day personally appeared Robert L. Farrar, Jr., Vice President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said LANDAR CORPORATION, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18<sup>th</sup> day of April, A. D. 1979.

/s/ Joyce K. Moore  
Notary Public in and for Harris County,  
TEXAS

THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared HARRY W. REED, President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said HARRY REED & CO., INC., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20<sup>th</sup> day of April, A.D. 1979.

/s/ Cathy Lisa Norberg  
Notary Public in and for Harris County,  
TEXAS

## JOINDER OF MORTGAGEE

The undersigned, Wells Fargo Realty Advisors Incorporated, being the owner and holder of existing mortgage and liens upon and against the real property described in the foregoing Declaration of Covenants, Conditions and Restrictions for Memorial Thicket, Section One, as such mortgagee and lienholder does hereby consent to and join in said Declaration.

This consent and joinder shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and liens shall hereafter be upon and against each and all of the lots in Memorial Thicket, Section One, subject to the foregoing Declaration.

EXECUTED this 18<sup>th</sup> day of April, A.D. 1979

WELLS FARGO REALTY ADVISORS INCORPORATED

By: /s/ A. Larry Chapman  
Regional Vice President

THE STATE OF TEXAS §

COUNTY OF HARRIS §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared A. Larry Chapman, Regional Vice President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Wells Fargo Realty Advisors Incorporated, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24<sup>th</sup> day of April, A.D., 1979.

/s/ Sandra Been  
Notary Public in and for Harris County,  
TEXAS

153-39-2096

A tract of land containing 9.3936 acres in the Joel Wheaton Survey, Abstract No. 30, Harris County, Texas, and being a portion of a 64.0772 acre survey of land, said 9.3936 acre tract being comprised of two (2) tracts of land being more particularly described as Tracts IA and IB as follows:

TRACT IA (1.5904 ACRES)

BEGINNING at a found 5/8-inch iron rod at a fence corner in the south right-of-way line of Memorial Drive based on a width of 100 feet and in a west line of a called 547.11 acre tract described as Parcel "A" in a deed from the United States of America to Harris County Flood Control District recorded in Volume 6116, Page 11 of the Harris County Deed Records, said iron rod being N 01° 20' 10" W, 20.42 feet from the most easterly northeast corner of Memorial Walk, Section Line according to the map or plat thereof recorded in Volume 202, Page 120 of the Harris County Map Records, said iron rod being the northeast corner of the said 64.0772 acre tract;

THENCE S 87° 43' 38" W, 784.49 feet with the south right-of-way line of the said Memorial Drive and the north line of the said 64.0772 acre tract to a found 5/8-inch iron rod marking the point of curvature of a curve to the left;

THENCE in a southwesterly direction 675.94 feet continuing with the south right-of-way line of the said Memorial Drive, the north line of the said 64.0772 acre tract and the arc of the said curve to the left having a radius of 1095.47 feet and subtending a central angle of 35° 21' 12" and having a long cord of 684.27 feet and bearing S 70° 03' 02" W to the point of tangency;

THENCE S 52° 22' 26" W, 187.22 feet continuing with the south right-of-way line of the said Memorial Drive and the north line of the said 64.0772 acre tract to the most northerly corner and POINT OF BEGINNING of the herein described tract;

THENCE S 82° 37' 34" E, 14.14 feet leaving the common line of the said Memorial Drive and 64.0772 acre tract to an angle point;

THENCE S 37° 37' 34" E, 193.69 feet to the point of curvature of a curve to the right;

THENCE in a southerly direction 156.47 feet with the arc of the said curve to the right having a radius of 200.73 feet and subtending a central angle of 44° 39' 45" to the southeast corner of the herein described tract;

THENCE N 85° 39' 27" W, 732.67 feet to a found 2-inch iron pipe in the west line of the said 64.0772 acre tract for the southwest corner of the herein described tract, said corner being in the east line of that certain tract recognized as Broken Bayou, an unrecorded subdivision;

THENCE N 56° 25' 30" W, 199.86 feet with the general line of a fence, the west line of the said 64.0772 acre tract and an east line of the said Broken Bayou (unrecorded subdivision) to a found 5/8-inch iron rod in the south right-of-way line of the said Memorial Drive based on a width of 100 feet for the northwest corner of the said 64.0772 acre tract and the herein described tract;

RECORDED'S MEMORANDUM  
AT THE TIME OF RECOGNITION, THIS  
INSTRUMENT WAS FOUND TO BE INADEQUATE  
FOR THE BEST PHOTOGRAPHIC REPRODUCTION  
BECAUSE OF ILLLEGIBILITY, CARBON OR  
PHOTO COPY, DISCOLORED PAPER, ETC.

EXHIBIT "A"  
Page One  
TRACTS SUBJECT TO POSSIBLE ANNEXATION

153-99-2097

TRACT 1A, continued:

THENCE N 52° 22' 26" E, 285.36 feet with the south right-of-way line of the said Memorial Drive and the north line of the said 64.0772 acre tract to the POINT OF BEGINNING and west northerly corner of the herein described tract containing 1.5994 acres of land.

TRACT 1B (7.7942 ACRES)

CONCERNING at a found 5/8-inch iron rod at a fence corner in the south right-of-way line of Memorial Drive based on a width of 100 feet and in a west line of a called 547.11 acre tract described as Parcel "A" in a deed from the United States of America to Harris County Flood Control District recorded in Volume 6116, Page 11 of the Harris County Deed Records, said iron rod being N 01° 20' 10" W, 20.42 feet from the most easterly northeast corner of Memorial Walk, Section One according to the map or plat thereof recorded in Volume 202, Page 370 of the Harris County Map Records, said iron rod being the northeast corner of that said 64.0772 acre tract;

THENCE S 07° 43' 38" W, 267.66 feet with the south right-of-way line of the said Memorial Drive and the north line of the said 64.0772 acre tract to the west northerly northeast corner and POINT OF BEGINNING of the herein described tract;

THENCE S 47° 16' 22" E, 14.14 feet leaving the common line of the said Memorial Drive and 64.0772 acre tract to an angle point;

THENCE S 02° 16' 22" E, 155.61 feet to the point of curvature of a curve to the right;

THENCE in a southwesterly direction 174.55 feet with the arc of the said curve to the right having a radius of 279.78 feet and subtending a central angle of 35° 44' 46" to the southeast corner of the herein described tract;

THENCE N 56° 31' 36" W, 115.00 feet to a point for corner;

THENCE S 40° 40' 44" W, 65.00 feet to an angle point;

THENCE S 54° 33' 30" W, 344.22 feet to a point in the old channel of Buffalo Bayou for a point for corner;

THENCE with the approximate upstream meanders of the said old channel of Buffalo Bayou as follows:

N 24° 05' 22" W, 58.40 feet;  
THENCE N 00° 52' 25" W, 145.27 feet;  
THENCE N 72° 28' 55" W, 230.58 feet;  
THENCE N 79° 17' 00" W, 100.83 feet;  
THENCE S 67° 43' 49" W, 95.00 feet;  
THENCE S 36° 26' 21" W, 78.00 feet;  
THENCE S 06° 00' 15" E, 88.00 feet;  
THENCE S 62° 28' 00" W, 55.00 feet;  
THENCE N 66° 53' 00" W, 61.00 feet;

THENCE S 89° 16' 00" W, 108.35 feet to the southwest corner of the herein described tract, said corner being in an arc of a curve having a radial bearing and distance of S 59° 06' 27" W, 399.27 feet to the said arc center;

RECORDERS MEMORANDUM

AT THE TIME OF RECORDATION, THIS  
INSTRUMENT WAS FOUND TO BE INADEQUATE  
FOR THE BEST PHOTOGRAPHIC REPRODUCTION  
BECAUSE OF ILLEGIBILITY, CARBON OR  
PHOTO COPY, DISCOLORED PAPER, ETC.

EXHIBIT "A"  
Page Two

153-99-2093

TRACT 1B continued

THENCE in a northwesterly direction 46.92 feet leaving the said old channel of Buffalo Bayou and with the arc of the said curve to the left having a radius of 399.27 feet and subtending a central angle of  $06^{\circ} 44' 01''$  to the point of tangency;

THENCE N  $37^{\circ} 37' 34''$  W, 96.31 feet to an angle point;

THENCE N  $07^{\circ} 22' 26''$  E, 14.14 feet to a point in the south right-of-way line of the said Memorial Drive and the north line of the said 64.0772 acre tract for the most northerly northwest corner of the herein described tract;

THENCE N  $52^{\circ} 22' 26''$  E, 67.22 feet with the south right-of-way line of the said Memorial Drive and the north line of the said 64.0772 acre tract to the point of curvature of a curve to the right;

THENCE in an easterly direction 575.84 feet continuing with the south right-of-way line of the said Memorial Drive, the north line of the said 64.0772 acre tract and the said curve to the right having a radius of 1085.47 feet and subtending a central angle of  $35^{\circ} 21' 12''$  and having a long chord of 665.27 feet and bearing N  $70^{\circ} 03' 02''$  E to a found 5/8-inch iron rod marking the point of tangency;

THENCE N  $87^{\circ} 43' 38''$  E, 536.83 feet continuing with the south right-of-way line of the said Memorial Drive and the north line of the said 64.0772 acre tract to the POINT OF BEGINNING and most northerly northeast corner of the herein described tract containing 7.7942 acres of land.

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION THIS INSTRUMENT WAS FOUND TO BE INADEQUATE FOR THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CARBON OR PHOTO COPY, DISCOLORED PAPER ETC.

EXHIBIT "A"  
Page Three

753-99-2099

148-08-2568

PARCEL II:

A tract of land containing 6.0058 acres in the Joel Meaton Survey, Abstract No. 80, in Harris County, Texas, and being a portion of a 64.0772 acre survey of land; said 6.0058 acre tract being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at a found 5/8 inch iron rod at a fence corner in the South right-of-way line of Memorial Drive based on a width of 100 feet and in a West line of a called 547.71 acre tract described as Parcel "A" in a Deed from the United States of America to Harris County Flood Control District recorded in Volume 6116, Page 11 of the Deed Records of Harris County, Texas, said iron rod being North 01 deg. 20 min. 10 sec. West, 20.42 feet from the most Easterly Northeast corner of Memorial Walk, Section One (1), according to the map or plat thereof recorded in Volume 202, Page 120 of the Map Records of Harris County, Texas, said iron rod being the Northeast corner of that said 64.0772 acre tract and the herein described tract;

THENCE South 01 deg. 20 min. 10 sec. East, 547.74 feet with a West line of the said Parcel "A" to a found concrete monument, said concrete monument marking an offset in the West line of the said Parcel "A" and the East line of the herein described tract; THENCE South 87 deg. 51 min. 23 sec. West, 211.90 feet with a North line of the said Parcel "A" to a found concrete monument for a point for corner of the said Parcel "A" and an interior corner of the herein described tract;

THENCE South 02 deg. 06 min. 00 sec. East, 104.79 feet with a West line of the said Parcel "A" to a found 5/8 inch iron rod marking the Northeast corner of a called 3.410 acre tract and a point for corner in the herein described tract;

THENCE South 87 deg. 29 min. 32 sec. West, 121.32 feet leaving the West line of the said Parcel "A" and with the North line of the said 3.410 acre tract to a found 5/8 inch iron rod marking the Northwest corner of the said 3.410 acre tract and an interior corner of the herein described tract;

THENCE South 02 deg. 03 min. 13 sec. East, 40.11 feet with the West line of the said 3.410 acre tract to a point in the old channel of Buffalo Bayou for the most Southerly corner of the herein described tract;

THENCE with the approximate upstream meanders of the said old channel of Buffalo Bayou as follows:

North 79 deg. 29 min. 34 sec. West, 101.28 feet;

THENCE North 62 deg. 38 min. 57 sec. West, 114.91 feet;

THENCE North 54 deg. 21 min. 20 sec. West, 72.07 feet;

THENCE North 38 deg. 57 min. 00 sec. West, 66.85 feet to the Southwest corner of the herein described tract;

THENCE North 54 min. 33 sec. 30 sec. East, 344.22 feet leaving the said old channel of Buffalo Bayou to an angle point;

THENCE North 40 deg. 40 min. 44 sec. East, 65.00 feet to an angle point;

THENCE South 56 deg. 31 min. 36 sec. East, 115.00 feet to a point lying in the arc of a curve which bears to the left and having a radial bearing of North 56 deg. 31 min. 36 sec. West, to said arc center;

THENCE in a Northerly direction, 174.55 feet with the arc of the said curve to the left having a radius of 279.78 feet and subtending a central angle of 35 deg. 44 min. 46 sec. to the point of tangency;

THENCE North 47 deg. 16 min. 22 sec. West, 14.14 feet to a point in the South right-of-way line of the said Memorial Drive and the North line of the said 64.0772 acre tract for the Northwest corner of the herein described tract;

THENCE North 87 deg. 43 min. 38 sec. East, 247.66 feet with the South right-of-way line of the said Memorial Drive and the North line of the said 64.0772 acre tract to the POINT OF BEGINNING and Northeast corner of the herein described tract containing 6.0058 acres of land.

EXHIBIT "A"  
Page Four

AGD  
Jew

153-39-2100

BEING a tract of land containing 103,932 square feet in the Joel Wheaton Survey, Abstract No. 80, Harris County, Texas, and being out of Reserve "B" of Memorial Thicket, Section Two, as recorded under Volume 293, Page 147 of Harris County Map Records, said 103,932 square foot tract of land being further described as follows:

COMMENCING at a point in the South right-of-way line of MEMORIAL DRIVE based on a width of 100 feet and in a West line of a called 547.11 acre tract described as Parcel "A" in a deed from the United States of America to Harris County Flood Control District (Langham Creek) recorded in Volume 6116, Page 11 of the Harris County Deed Records, said point also being the Northeast corner of said Reserve "B";

THENCE South 87 deg. 43 min. 38 sec. West, 348.23 feet along the South line of said Memorial Drive and the North line of said Reserve "B" to the Northeast corner and POINT OF BEGINNING of the herein described tract of land;

THENCE South 14 deg. 06 min. 24 sec. East, 112.83 feet to an angle point;

THENCE South 64 deg. 50 min. 25 sec. West, 138.01 feet to an angle point;

THENCE South 42 deg. 13 min. 53 sec. West, 49.02 feet to a point for corner;

THENCE South 50 deg. 55 min. 36 sec. East, 103.59 feet to a point for corner;

THENCE South 37 deg. 43 min. 34 sec. West, 93.82 feet to an angle point;

THENCE South 56 deg. 05 min. 39 sec. West, 59.54 feet to an angle point;

THENCE South 72 deg. 20 min. 55 sec. West, 36.35 feet to an angle point;

THENCE South 85 deg. 31 min. 50 sec. West, 45.95 feet to an angle point;

THENCE North 66 deg. 29 min. 12 sec. West, 121.38 feet to an angle point;

THENCE North 26 deg. 24 min. 23 sec. West, 61.38 feet to an angle point;

THENCE North 18 deg. 51 min. 12 sec. West, 71.04 feet to an angle point;

THENCE North 15 deg. 17 min. 14 sec. East, 65.04 feet to an angle point;

THENCE North 34 deg. 07 min. 04 sec. East, 71.12 feet to an angle point;

THENCE North 61 deg. 44 min. 55 sec. East, 36.10 feet to an angle point;

THENCE North 79 deg. 20 min. 22 sec. East, 108.23 feet to an angle point;

THENCE North 23 deg. 09 min. 01 sec. East, 41.41 feet to an angle point;

THENCE North 71 deg. 58 min. 14 sec. East, 62.00 feet to the Northwest corner of the herein described tract, said point lying in the South line of Memorial Drive and the North line of said Reserve "B";

THENCE North 87 deg. 43 min. 38 sec. East, 128.42 feet along the South line of said Memorial Drive and the North line of said Reserve "B" to the Northeast corner and POINT OF BEGINNING of the herein described tract containing 103,932 square feet of land.

EXHIBIT "B"  
LAKE THICKET TRACT

168-98-1015

MEMORIAL THICKET, SECTION TWO  
5 FOOT WIDE INGRESS AND EGRESS EASEMENT "B"  
1,507 SQ. FT.  
TRACT 2

SEPTEMBER 18, 1980  
JOB NO. RL-10-3A

DESCRIPTION OF AN EASEMENT  
CONTAINING 1,507 SQUARE FEET OF LAND  
IN MEMORIAL THICKET, SECTION TWO  
HARRIS COUNTY, TEXAS

BEING a 5 foot wide ingress and egress easement containing 1,507 square feet of land in the Joel Wheaton Survey Abstract No. 80, Harris County, Texas and being within a 30 foot drainage easement in Reserve "B" of Memorial Thicket, Section Two as recorded under Volume 293, Page 147 of the Harris County Map Records said 1,507 square foot easement being further described as follows:

BEGINNING at the northwest corner of Lot 44, Block 2 of the corrective plat of Memorial Thicket, Section One as recorded under Volume 285, Page 107 of the Harris County Map Records and being in the south line of Reserve "B" of Memorial Thicket, Section Two as recorded under Volume 293, Page 147 of the Harris County Map Records;

THENCE N 35° 13' 27" E, 25.00 feet along a projection of the west line of said Lot 44 to a point for corner, said point lying 5 feet southerly of the northerly line of a 30 foot wide drainage easement as recorded with said Memorial Thicket, Section Two;

THENCE N 54° 21' 20" W, 53.49 feet parallel to and 5.00 feet south of the northerly line of said drainage easement to an angle point;

THENCE N 38° 57' 00" W, 60.21 feet continuing parallel to and 5.00 feet south of the northerly line of the said drainage easement to an angle point;

THENCE N 24° 05' 22" W, 50.00 feet continuing parallel to and 5.00 feet south of the northerly line of the said drainage easement to an angle point;

THENCE N 00° 52' 25" W, 113.51 feet continuing parallel to and 5.00 feet south of the northerly line of the said drainage easement to the northwest corner of the herein described easement;

THENCE S 26° 24' 23" E, 3.91 feet to a point for corner;

THENCE S 66° 29' 12" E, 3.64 feet to the northeast corner of the herein described easement; said point being in the northerly line of the said 30 foot drainage easement;

THENCE S 00° 52' 24" E, 107.46 feet with the northerly line of the said 30 foot drainage easement to an angle point;

THENCE S 24° 05' 22" E, 48.32 feet with the northerly line of the said 30 foot drainage easement to an angle point;

THENCE S 38° 57' 00" E, 58.88 feet with the northerly line of the said 30 foot drainage easement to an angle point;

THENCE S 54° 21' 20" E, 57.78 feet with the northerly line of the said 30 foot drainage easement to a point for corner;

THENCE S 35° 13' 27" W, 30.00 feet to the most southerly corner of the herein described easement, said point lying in a northerly line of said Lot 44;

THENCE N 54° 21' 20" W, 5.00 feet along a northerly line of said Lot 44 to the POINT OF BEGINNING of the herein described easement containing 1,507 square feet.

HERCER-BROWN ENGINEERS, INC.

Exhibit C  
Page 1

168-58-1016

MEMORIAL THICKET, SECTION TWO  
5 FOOT WIDE INGRESS AND EGRESS EASEMENT "A"  
4,093 SQ. FT.  
TRACT 3

SEPTEMBER 19, 1980  
JOB NO. RL-10-3A

DESCRIPTION OF AN EASEMENT  
CONTAINING 4,093 SQUARE FEET OF LAND  
OUT OF MEMORIAL THICKET, SECTION TWO  
HARRIS COUNTY, TEXAS

BEING a 5 foot wide ingress and egress easement containing 4,093 square feet of land in the Joel Wheaton Survey, Abstract No. 80, Harris County, Texas, and being within a 30 foot drainage easement in Reserve "B" of Memorial Thicket, Section Two as recorded under Volume 293, Page 147 of the Harris County Map Records, said 4,093 square foot easement being further described as follows:

COMMENCING at the most northerly northwest corner of said Reserve "B", said point lying in the southerly right-of-way of Memorial Drive, 100 feet wide, and the easterly right-of-way of Plainwood Drive, 140 feet wide at this point, as recorded with the corrective plat of Memorial Thicket, Section One as recorded under Volume 285, Page 107 of the Harris County Map Records;

THENCE S 07° 22' 26" W, 14.14 feet along a cutback of said Plainwood Drive to an angle point;

THENCE S 37° 37' 34" E, 71.97 feet along the easterly line of said Plainwood Drive to a point of curvature of a curve to the right;

THENCE in a southeasterly direction along the easterly line of said Plainwood Drive and the arc of the said curve to the right having a radius of 433.90 feet, subtending a central angle of 05° 31' 00", a distance of 41.78 feet to the northwest corner and POINT OF BEGINNING of the herein described easement, said point lying in the northerly line of a 30 foot wide drainage easement as recorded with the Memorial Thicket, Section Two Plat;

THENCE N 89° 16' 00" E, 123.77 feet along the northerly line of the said drainage easement to an angle point;

THENCE S 66° 53' 00" E, 53.14 feet along the northerly line of the said drainage easement to an angle point;

THENCE N 62° 28' 00" E, 20.39 feet along the northerly line of the said drainage easement to an angle point;

THENCE N 05° 00' 15" W, 79.23 feet along the northerly line of the said drainage easement to an angle point;

THENCE N 36° 26' 21" E, 98.05 feet along the northerly line of the said drainage easement to an angle point;

THENCE N 67° 43' 49" E, 112.28 feet along the northerly line of the said drainage easement to an angle point;

THENCE S 79° 17' 00" E, 111.49 feet along the northerly line of the said drainage easement to an angle point;

THENCE S 72° 28' 55" E, 220.21 feet along the northerly line of the said drainage easement to a point for corner of the herein described easement;

THENCE S 18° 51' 12" E, 6.21 feet to a point for corner;

THENCE N 72° 28' 55" W, 223.59 feet parallel to and five feet south of the northerly line of the said drainage easement to an angle point;

Exhibit C  
Page 2

MEMORIAL THICKET, SECTION TWO  
5 FOOT WIDE INGRESS AND EGRESS EASEMENT "A"  
4,093 SQ. FT.  
TRACT 3  
SEPTEMBER 19, 1980

168-50-1017

Page 2

THENCE N 79° 17' 00" W, 109.72 feet continuing parallel to and 5 feet south of the northerly line of said drainage easement to an angle point;

THENCE S 67° 43' 49" W, 109.41 feet continuing parallel to and five feet south of the northerly line of said drainage easement to an angle point;

THENCE S 36° 26' 21" W, 94.71 feet continuing parallel to and 5 feet south of the northerly line of said drainage easement to an angle point;

THENCE S 06° 00' 15" E, 80.70 feet continuing parallel to and 5 feet south of the said drainage easement to an angle point;

THENCE S 62° 28' 00" W, 26.16 feet continuing parallel to and 5 feet south of the said drainage easement to an angle point;

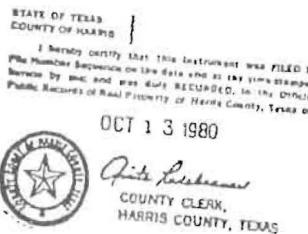
THENCE N 66° 53' 00" W, 54.45 feet continuing parallel to and 5 feet south of the said drainage easement to an angle point;

THENCE S 89° 16' 00" W, 119.71 feet continuing parallel to and 5 feet south of the said drainage easement to the southwest corner of the herein described easement, said point lying in the westerly line of said Reserve "B", the easterly line of said Plainwood Drive and an arc of a curve;

THENCE in a northwesterly direction along the west line of said Reserve "B", the easterly line of said Plainwood Drive and the arc of said curve to the left whose chord bears N 31° 43' 27" W, 5.83 feet having a radius of 433.90 feet, subtending a central angle of 00° 46' 13", a distance of 5.83 feet to the northwest corner and POINT OF BEGINNING of the herein described easement containing 4,093 square feet of land.

HERCER-BROWN ENGINEERS, INC.

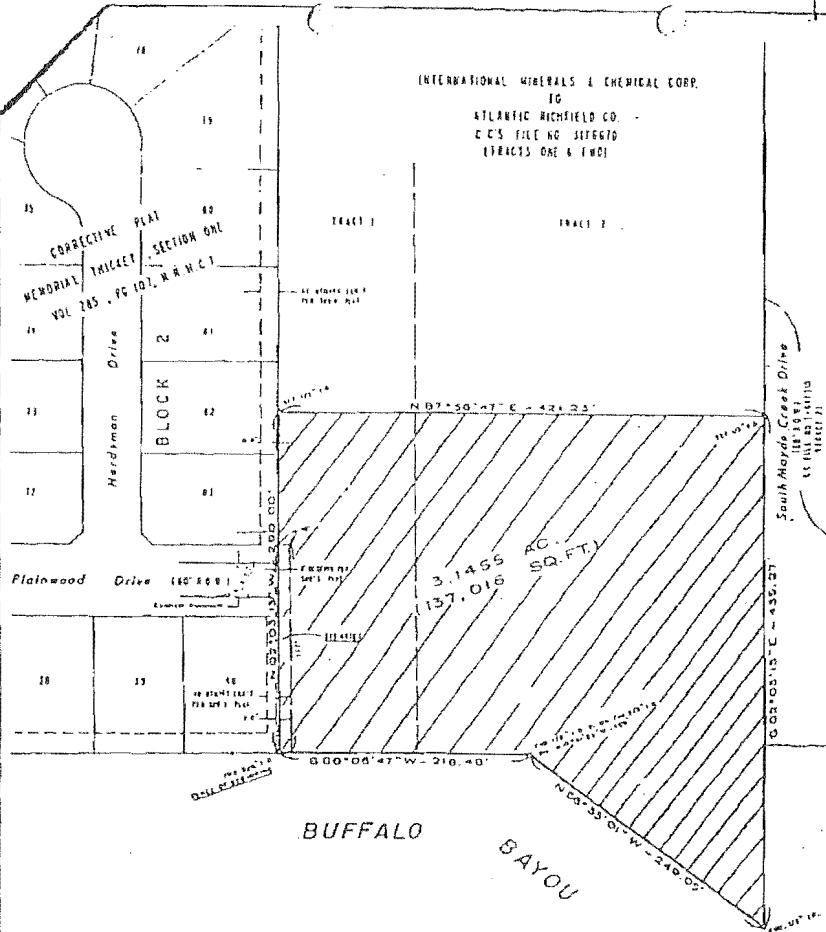
Re: Gencarli Tellez  
4007 San Jacinto  
WPH - See Special?



FILED  
Oct 13 / 32 PH 1980  
*Rita Lubberman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

Exhibit C  
Page 3

112-68-1516



JOEL WHEATON SURVEY , A-80

NOTE: I, ELLIOTT L. ADAMS, do hereby certify that this plat is a true representation of a survey made by my firm, where no extension, and represents the facts as shown at the time of said survey.

Elliott L. Adams  
ELLADAMS &  
REGISTERED PUBLIC SURVEYOR NO 1040

APPROVED FOR RECORDING ONLY  
J. L. Adams  
COUNTY ENGINEER

Exhibit "D"  
Page one

PLAT  
SHOWING SURVEY OF A  
3.1455 ACRE TRACT OF LAND  
LOCATED IN THE  
JOEL WHEATON SURVEY, A-80  
CITY OF HOUSTON  
HARRIS COUNTY, TEXAS

THE FISHER CO., INC.

DATE	11-11-81	RECORDED BY	JOEL WHEATON SURVEY
FILE NO.	1000070	OWNER	ATLANTIC RICHFIELD COMPANY
MAP NO.	112-68-1516	DATE REC'D.	NOV 14, 1981

112-68-1517

EXHIBIT "B"

Tract B

BEING a 3.1455 acre tract of land located in the Joel Wheaton Survey, Abstract No. 80, Harris County, Texas, and being a portion of Tracts One and Two conveyed from International Minerals and Chemical Corporation to Atlantic Richfield Co. by instrument filed under County Clerk's File No. J176670, Official Public Records of Real Property, Harris County, Texas, said 3.1455 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found in the North line Buffalo Bayou marking the southeast corner of Lot 40, Block 3 of the corrective plat of Memorial Thicket, Section One per map or plat thereof recorded in Volume 285, Page 107 of the Map Records of Harris County, Texas same being the southwest corner of said Tract One and the southwest corner of the herein-described tract;

THENCE North 02 deg. 03 min. 13 sec. West, along the east line of said Memorial Thicket, Section One, same being the west line of said Tract One, a distance of 290.00 feet to a 1/2 inch iron rod set for the northwest corner of the herein described tract;

THENCE North 87 deg. 56 min. 47 sec. East, a distance of 421.23 feet to a 1/2 inch iron rod set in the east line of said Tract Two same being the west right-of-way line of South Mayde Creek Drive, based on a width of 60.00 feet per instrument filed under County Clerk's File No. F-647315 (Tract 2) for the northeast corner of the herein described tract;

THENCE South 02 deg. 03 min. 13 sec. East, along the east line of said Tract Two same being the west right-of-way line of said South Mayde Creek Drive, a distance of 435.27 feet to a 1/2 inch iron rod found in the north line of Buffalo Bayou for the southeast corner of the said Tract Two same being the southeast corner of the herein described tract;

THENCE North 56 deg. 33 min. 01 sec. West, along said north line of Buffalo Bayou, a distance of 249.05 feet the 1/2 inch iron rod found for an angle point from which a 5/8 inch iron rod found bears North 10 deg. 41 min. 05 sec. West, 1.09 feet;

THENCE South 88 deg. 06 min. 47 sec. West, along said north line of Buffalo Bayou, a distance of 218.48 feet to the PLACE OF BEGINNING and containing 3.1455 acres or 137,016 square feet of land.

Exhibit "B"  
Page Two

112-68-1518

ASSIGNMENT OF CONTRACT

THE STATE OF TEXAS : KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF HARRIS :

This Agreement by and between Lendar Corporation (hereinafter called the "Assignor") and Atlantic Richfield Company (hereinafter called the "Assignee");

A. WITNESSETH:

Whereas, pursuant to the terms of an earnest money contract (hereinafter called the "Contract") executed by the Assignor, as "Purchaser" and by B. H. Estess, M.D. as "Seller" (hereinafter called the "Seller") on the 12th day of January, 1981 the Seller agreed to sell to the Assignor a certain tract of land described therein; and

Whereas, a complete description of said land is attached hereto as Exhibit "A"; and

Whereas, the Assignor desires to assign the Contract to the Assignee, and the Assignee desires to acquire the Contract from the Assignor;

Now, therefore, in consideration of the premises and for the consideration hereinafter specified, the sufficiency of which is hereby expressly confessed and acknowledged, the Assignor and the Assignee hereby stipulate, covenant and agree as follows:

1. The Assignor has assigned, transferred, set-over, and conveyed and by these presents doth hereby assign, transfer, set-over and convey the Contract unto the Assignee, its successors, legal representatives and assigns.

2. As part consideration for this assignment, the Assignee has paid to the Assignor the sum of Fifteen Thousand and no/100 Dollars (\$15,000.00) the receipt of which is expressly confessed and acknowledged.

Exhibit "E"  
Page One

112-88-1519

7373.122/W20/6

3. Stephen R. Kirklin, Trustee has entered into an agreement entitled Agreement No. 2 dated December 12, 1980 with Elizabeth L. Moser, Trustee (said contract, together with all amendments thereto being herein-after called the "Moser Contract") pursuant to which Stephen R. Kirklin, Trustee is to acquire certain property therein described. The Assignee covenants and agrees, contemporaneously with a closing of the acquisition of the real property described in the Moser Contract by Stephen R. Kirklin, Trustee (or by his nominee or designee), that the Assignee will convey to the Assignor, or will cause to be conveyed to the Assignor or to such party as the Assignor may designate, a tract of land being generally described as follows:

Beginning at the Southeast corner of Memorial Thicket, Section One, a subdivision in Harris County, Texas according to a plat thereof recorded in Volume 235 at Page 107 of the Plat Records of Harris County, Texas;

Thence, in a northerly direction along the eastern boundary of Memorial Thicket to the Southeast corner of Lot 03, Section One, of Memorial Thicket, and continuing for an additional two (2) feet to a point for a corner (this call being hereinafter referred to as the "Northern Call" and the distance being hereinafter referred to as the "Northern Distance");

Thence East ten (10) feet; to a point for a corner;

Thence in a southerly direction, parallel to the Northern Call for the Northern Distance to a point for a corner;

Thence in a westerly direction to the place of Beginning. The herein described tract is further described on the attached plat, and said plat is expressly incorporated herein for all purposes.

The conveyance of the tract described herein to the Assignor is a material portion of the consideration for this Assignment.

4. In the event Stephen R. Kirklin, Trustee, or his successors, legal representatives or assigns, does not intend to close pursuant to the terms and provisions of the Moser Contract, then, ten days prior to the latest closing date specified in the Moser Contract, the Assignee will cause Stephen R. Kirklin,

Exhibit 'E'  
Page Two  
-7-

112-58-1520

7373.122/W20/d

Trustee, his successors, legal representatives or assigns, to  
assign the Master Contract to the Assignors herein.

Executed this 11 day of March 1981.

LANDAR CORPORATION

By 

ATLANTIC RICHFIELD COMPANY

By   
ed  
RM

Exhibit "E"  
Page Three.  
-3-

Title Data TX TDI17150 HA L598355.009

112-68-152

EXHIBIT - "A"

FIELD NOTES of 3.413 Acres of Land in the Joel Wrentham Survey, Abstract No. 80, Harris County, Texas, being the tract described in Deed from J. A. Wix to B. H. Estes recorded in Volume 3506 at Page 592 of the Deed Records of Harris County, Texas, and being more particularly described as follows:

BEGINNING at a Concrete Monument in the North right-of-way line of Buffalo Bayou after rectification, said concrete monument marking the Southeast corner of said tract described in Volume 3506 at Page 592 of the Deed Records of Harris County, Texas;

THENCE along the North right-of-way line of Buffalo Bayou South 68 degrees 43 minutes 30 seconds West 1224.60 feet to an iron rod for corner;

THENCE North 01 degree 26 minutes 30 seconds West 1224.60 feet to an iron rod for corner;

THENCE North 58 degrees 41 minutes 30 seconds East 121.60 feet to an iron rod for corner whence an angle and 1-inch iron pipe lead North 28 degrees 02 minutes East 0.85 of a foot;

THENCE South 01 degree 26 minutes 30 seconds East 1224.60 feet to the PLACE OF BEGINNING containing 3.413 Acres of land.

RECORDERS MEMORANDUM  
AT THE TIME OF RECORDATION THIS  
INSTRUMENT WAS FOUND TO BE INADEQUATE  
FOR THE BEST PHOTOGRAPHIC REPRODUCTION  
BECAUSE OF ILLLEGIBILITY, CARBON DUST  
PHOTO COPY, DISCOLOURED PAPER ETC

DO NOT CONFINE THIS MEMORANDUM WHICH REFLECTS THE DATE, PLACE, OR USE OF THE DECEASED REAL PROPERTY REFERRED TO IN THE DEED AS IT IS NOT TO BE USED AS A SUBSTITUTE FOR THE DEED.  
THE STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that the instrument was FILED in File Number  
Sequence on the date and at the time stamped hereon by me and was  
duly RECORDED in the Official Public Record of Real Property of Harris  
County, Texas on

MAR 28 1988



Attest  
Anne L. Johnson  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

FILED  
MAR 28 1988

Anne L. Johnson  
County Clerk  
Harris County, Texas

Exhibit "E"  
Page Four

K679581

055-66-1212

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
RESERVES "A" AND "B" OF MEMORIAL THICKET, SECTION TWO (2)

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

That, this declaration is made the 29th day of July, 1986, by  
DEARBORN CORPORATION, a Texas corporation, with principal offices located at Five Post Oak  
Park, Suite 2220, Houston, Texas 77027, acting herein by and through its duly authorized  
officers.

W I T N E S S E T H:

WHEREAS, Dearborn Corporation (hereinafter called "Declarant") is the owner of  
certain real property, being Unrestricted Reserves "A" and "B" in Memorial Thicket,  
Section Two (2), a subdivision in Harris County, Texas, according to the map or plat  
thereof recorded in Volume 293, Page 147 of the Map Records of Harris County, Texas; and

WHEREAS, Declarant desires at some time in the future to either sell all or portions  
of said Unrestricted Reserves or develop same; and

WHEREAS, Declarant desires to assure that the development of said reserves by  
Declarant or others does not jeopardize the quality and ambiance of the Memorial Thicket  
Subdivision previously developed by Declarant; and

WHEREAS, Declarant has determined that it would be desirable to restrict ingress and  
egress to and from Unrestricted Reserves "A" and "B" of Memorial Thicket to Plainwood  
Drive in order to protect said quality and ambiance;

NOW, THEREFORE, Declarant hereby declares that Unrestricted Reserves "A" and "B" of  
Memorial Thicket, Section Two, shall be developed, improved, held, used, sold and conveyed  
in accordance with and subject to the following restrictions, covenants, conditions and  
stipulations, all of which are hereby adopted for and placed upon said property and shall  
run with the land and be binding upon all parties, now and at any time hereafter, having  
or claiming any right, title or interest in the described reserves or any part thereof,  
their heirs, executors, administrators, legal representatives, successors and assigns  
regardless of the source of or the manner in which any such right, title or interest is or  
may be acquired, and shall inure to the benefit of each owner of any part of the reserves  
and the owners of lots located in the Memorial Thicket Subdivision. Any contract, deed,  
lease or other instrument hereafter mentioned and covering the reserves or any portion  
thereof shall conclusively be held to have been executed, delivered and accepted subject  
to these restrictions, regardless of whether or not these restrictions are set out in full  
or incorporated by reference in such contract, deed, lease or other instrument.

R. E. Waller, Squires, Tonphens  
400 Marathon Oil Tower  
5555 San Felipe  
Houston, TX 77054

Unrestricted Reserves "A" and "B" of Memorial Thicket, Section Two (2), are hereby restricted to general access to and from Memorial Drive only and no general access shall be had from either reserve to Plainwood Drive at any point where said reserve is adjacent to or borders upon said drive. Any owner of all or a portion of the said Unrestricted Reserves "A" and "B" shall develop the property owned by him in such a manner as to prevent general access by the general public from said reserve to Plainwood Drive. Such prevention of access shall be made by a masonry wall or other type of fencing material in keeping with the entrance to the Memorial Thicket Subdivision at least six (6) feet in height and shall not be done solely by a greenbelt area. Any barrier to access to and from Plainwood Drive shall be constructed on or inside the ten foot (10') building line bordering on Plainwood Drive as shown by the plat for Memorial Thicket, Section Two (2), and the area between said ten foot (10') building line and Plainwood Drive shall be landscaped and maintained by the owner or owners of the property in the reserve which borders upon said ten foot (10') building line. The landscaping shall be of a type agreed upon by said property owners and the Memorial Thicket Homeowners Association. In the event said owners and homeowners association cannot reach an agreement as to landscaping within sixty (60) days after the commencement of negotiations, the owner of the property adjacent to said ten foot (10') building line shall install such landscaping in the due course of construction of improvements as is compatible with the landscaping which is then had at the entrance of the Memorial Thicket Subdivision. Said landscaping shall be maintained and replaced at the expense of said property owner.

The foregoing provisions are not to be construed or interpreted as preventing the owner of all or a portion of Unrestricted Reserves "A" and "B" from allowing restricted access to Plainwood Drive from the portion of the reserve owned by him which borders upon Plainwood Drive. The means of access to Plainwood Drive from said Unrestricted Reserves shall be controlled in such a manner so as to prevent the use at will of such access by the general public. Such means of controlled access may be by an access device which is issued to employees of the owner for ingress and egress to and from the property through a barrier, by means of a locked fence or gate whose key or lock combination is controlled by a restricted number of the agents or employees of the owner; or such other means as may be devised by the owner which will prevent access at will by the general public to and from the Unrestricted Reserves to Plainwood Drive.

These restrictions shall remain in full force and effect from the date these restrictions are filed for record in the office of the County Clerk of Harris County, Texas, until such time as the Declaration of Covenants, Conditions and Restrictions for Memorial Thicket, Section One (1) expire and if same are automatically extended, these restrictions shall, as then in force, also be extended automatically and without further

notice, and without limitation, for the same extended term as the restrictive covenants for Memorial Thicket, Section One (1), unless modified or terminated in the manner set forth herein. Prior to the expiration of twenty (20) years from the date these restrictions are filed in the county records, these restrictions may only be modified or terminated by recording in the Deed Records of Harris County, Texas, an instrument amending or revoking these restrictions signed by seventy-five percent (75%) of the then property owners of lots in the Memorial Thicket Subdivision, the owners of seventy-five percent (75%) of the gross square footage contained in Unrestricted Reserve "A" of Memorial Thicket, Section Two (2), and the owners of seventy-five percent (75%) of the gross square footage contained in Unrestricted Reserve "B" of Memorial Thicket, Section Two (2).

At any time after the expiration of twenty (20) years from the date these restrictions are filed for record in the office of the County Clerk of Harris County, Texas, these restrictions may be modified in any particular or terminated in their entirety by recording in the Deed Records of Harris County, Texas, an instrument amending or revoking these restrictions, signed by the owners representing two-thirds (2/3rds) of the property owners in the Memorial Thicket Subdivision, the owners of two-thirds (2/3rds) of the gross square footage contained in Unrestricted Reserve "A" of Memorial Thicket, Section Two (2) and the owners of two-thirds (2/3rds) of the gross square footage contained in Unrestricted Reserve "B" of Memorial Thicket, Section Two (2), and any violation of these restrictions shall not affect any lien or deed of trust of record held in good faith upon the restricted property or any part thereof, which liens may be enforced in due course, subject to these covenants, conditions, reservations and restrictions contained herein.

The Memorial Thicket Homeowners Association and any property owner in the Memorial Thicket Subdivision shall be considered a third party beneficiary to these restrictive covenants and shall have the right to enforce same.

No delay in enforcing the provisions of this Declaration as to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has hereunto set its hand this 29<sup>th</sup> day of July, 1986.

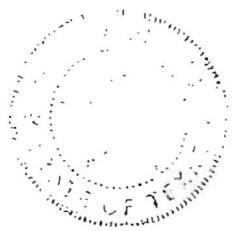
DEARBORN CORPORATION

BY: Nina J. Berkley  
 Name: Nina J. Berkley  
 Title: PRESIDENT

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

055-66-1215

This instrument was acknowledged before me on the 29 day of JULY,  
1986, by NINA L. BEAUGÉT, PRESIDENT of DEARBORN  
CORPORATION, a Texas corporation, on behalf of said corporation.



Notary Public in and for  
The State of TEXAS

My Commission Expires: \_\_\_\_\_

LINDGARA NICKETTS  
Notary Public in and for Harris County, Texas  
My Commission Expires 07-21-89

(JSA72)

055-66-1216

CONSENT OF LIENHOLDER

UNIVERSITY SAVINGS ASSOCIATION, the owner and holder of that certain promissory note dated April 1, 1983, in the original principal sum of \$7,191,000.00, executed by Dearborn Corporation, payable to the order of University Savings Association, secured by a Deed of Trust of even date therewith to Richard Collier, Trustee, filed for record under Harris County Clerk's File No. J182085, joins in the execution hereof for the purpose of subordinating all the liens held by it against the properties hereby restricted unto these presents, and does hereby consent and agree to the imposition of the foregoing reservations, restrictions, covenants and conditions; and University Savings Association hereby agrees that a foreclosure of such liens shall not affect such reservations, restrictions, covenants and conditions.

UNIVERSITY SAVINGS ASSOCIATION

BY: *James L. Fartherree, Jr.*  
Name: James L. Fartherree, Jr.  
Title: Executive Vice President

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the 11<sup>th</sup> day of August, 1986, by JAMES L. FATHERREE, JR., Executive Vice President of UNIVERSITY SAVINGS ASSOCIATION, a Texas savings and loan association, on behalf of said association.

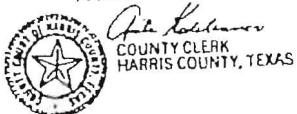
*deanna murphy*  
Notary Public in and for  
The State of TEXAS

My Commission Expires: 1-9-88

(JSA72)

NOT PROVISION HERIN WHICH RESTRICTS THE SALE, REMOVAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS UNLAWFUL AND UNCONSTITUTIONAL UNDER FEDERAL LAW.  
THE STATE OF TEXAS ]  
COUNTY OF HARRIS ]  
I certify certifly that this instrument was FILED in File Number  
Sequence on the date and at the time stamped below by me and was  
RECORDED, in the Official Public Records of Real Property of Harris  
County, Texas on

AUG 11 1986



FILED  
AUG 11 1986  
RECEIVED  
HARRIS COUNTY CLERK  
HARRIS COUNTY, TEXAS

*Off* L415199

11/06/87 0002351 L415199 \$ 2.00

RESTRICTIVE COVENANT AGREEMENT

STATE OF TEXAS §

197-26-1644

COUNTY OF HARRIS §

This agreement, made this 26 day of OCTOBER,  
1987, by and among the undersigned parties:

WHEREAS, Bal A. Kendall and Lens M. Kendall are the owners  
of a tract of land described as Lot 1, Block 2, of Memorial  
Thicket, Section One, according to the map or plat thereof  
recorded in Volume 285, Page 107, of the map records of Harris  
County, Texas, hereinafter referred to as "the property";

WHEREAS, the property is subject to the Declaration of  
Covenants, Conditions and Restrictions for Memorial Thicket,  
Section One, filed in the real property records of Harris County,  
Texas, which provide for among other items, the annual and  
special assessments for a lot which has, has had, or may have a  
residence built upon it;

WHEREAS, Mr. & Mrs. Kendall have presented evidence to  
Memorial Thicket Homeowners Association, Inc. regarding the  
unsuitability of construction of a residence on said property and  
further agree to execute restrictive covenants restricting the  
right to build a structure on said property;

WHEREAS, Memorial Thicket Homeowners Association, Inc., in  
consideration for said restrictive covenant, agrees not to assess  
the property for special or annual assessments from 1987, until  
the expiration of these restrictive covenants;

NOW, THEREFORE, for and in consideration of the mutual  
promises, covenants, and agreements of the parties hereto, each  
to the others as covenantee and covenantee, and expressly for  
the benefit of, and to bind, their successors in interest, the  
said parties agree as follows:

1. No building for human occupancy of any kind shall be  
commenced, erected, constructed or maintained upon the property.

2. The property will not be sold for building purposes of  
any kind, residential or otherwise.

3. The property will not be sold separately from Lot 2,  
Block 2, of Memorial Thicket, Section One.

4. The property plus the adjoining bayou will be  
maintained by the owner of Lot 2, Block 2, of Memorial Thicket,  
Section One. Maintenance of the "adjoining bayou" shall mean the  
clearing of the Harris County Flood Control District easement of  
weeds and underbrush, but shall not include the maintenance for  
flood control purposes.

197-26-1645

5. Memorial Thicket Homeowners Association, Inc. shall not assess annual or special assessments to this property as long as this Restrictive Covenant Agreement is in force and effect and has not been breached by the owners of the property.

6. The owners of the property are not entitled to and shall not seek a refund of any special or annual assessments paid prior to 1987.

7. Excluding Restriction Number 6, Restrictions Number 1 through 5 shall remain in force and effect for the same periods as the Declaration of Covenants, Conditions and Restrictions for Memorial Thicket, Section One, and any amendments thereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

Hal A. Kendall 3d  
HAL A. KENDALL  
Lena M. Kendall 3d  
LENA M. KENDALL

MEMORIAL THICKET HOMEOWNERS  
ASSOCIATION, INC.

By: Frank Waters 3d  
FRANK WATERS, President

THE STATE OF TEXAS

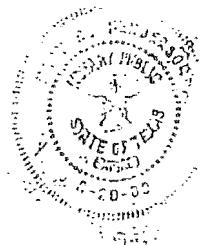
COUNTY OF HARRIS

This instrument was acknowledged before me on the 21st day of August, 1987, by Hal A. Kendall.

Mary D. Henderson  
NOTARY PUBLIC, State of Texas

Mary D. Henderson  
Printed Name of Notary

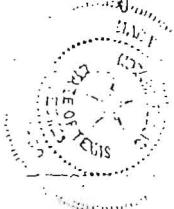
My Commission Expires: 8/29/89



197-26-1646

THE STATE OF TEXAS  
COUNTY OF HARRIS

This instrument was acknowledged before me on the 21st day  
of August, 1987, by Leon H. Kendall.



Mary D. Henderson  
NOTARY PUBLIC, State of Texas

Mary D. Henderson  
Printed Name of Notary

My Commission Expires: 8/29/89

THE STATE OF TEXAS  
COUNTY OF HARRIS

This instrument was acknowledged before me on the 20 day  
of October, 1987, by Frank Waters, President of Memorial  
Thicket Homeowners Association, Inc., on behalf of said  
corporation.



Patricia K. McAuliffe  
NOTARY PUBLIC, State of Texas

Patricia K. McAuliffe  
Printed Name of Notary

My Commission Expires: 2/26/88

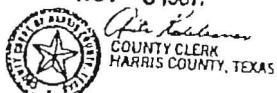
AFTER RECORDING RETURN TO:

Mr. Hal A. Kendall  
711 Plainwood Drive  
Houston, Texas 77079

AN AFFIDAVIT IS HEREBY MADE WHICH CERTIFIES THAT THE SAID REAL ESTATE ORGANIZATION  
HEREIN RECORDED OR DOCUMENTED IS LOCATED IN THE STATE OF TEXAS  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in the Notary  
Seal on the date and at the time stamped above by me and was  
duly RECORDED in the Official Public Records of Real Property of Harris  
County, Texas on

NOV 6 1987.



FILED FOR RECORD  
8:30 A.M.

NOV 6 1987

Rita L. Johnson  
County Clerk, Harris County, Texas

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION THIS  
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Ortega #41

N441110

STATE OF TEXAS

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009-43-1859

COUNTY OF HARRIS

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SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR MEMORIAL THICKET, SECTION THREE

This Supplemental Declaration is made on the day hereinafter set forth by PRESCO SYSTEMS, INC., a Texas corporation. Reference is made to the following:

Presco Systems, Inc. is the owner of certain real property known as Memorial Thicket, Section Three, a subdivision in Harris County, Texas, according to the plat filed under Clerk's File No. N396306 and recorded under Film Code No. 350088 of the Map Records of Harris County, Texas (the "Property").

Subject to the exceptions, modifications or exclusions set forth hereinbelow, Presco Systems, Inc. wishes to submit the Property to that Declaration of Covenants, Conditions and Restrictions for Memorial Thicket, Section One, filed for record under Clerk's File No. G477080 and recorded under Film Code No. 153-99-2064 of the Official Public Records of Real Property of Harris County, Texas (the "Declaration").

Presco Systems, Inc. desires to develop, hold, sell and convey the Property subject to the Declaration (with the exceptions, modifications or exclusions as set forth hereinbelow) for the purpose of establishing a uniform plan for the development, improvement and sale of the Property and to ensure the preservation of such uniform

RETURN TO: EDWARD S. CUTRER

P. O. BOX 1504

HOUSTON, TEXAS 77251-1504 .

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plan for the benefit of both present and future owners of lots within the Property.

1. NOW, THEREFORE, except as otherwise expressly provided herein, Presco Systems, Inc. hereby adopts, and impresses the Property with, the conditions, covenants, and restrictions set forth in the Declaration which shall be applicable to the Property and shall run with the land and shall bind all parties having or acquiring any right, power, or interest therein or any part thereof and shall inure to the benefit of each owner thereof.

2. (a) "Assessable Tract" shall mean and refer to any Lot as defined in this Supplemental Declaration from and after (i) the date on which paved public street access and water, sanitary, and sewer service and permanent electric service have been extended thereto and which Lot has been staked or (ii) the date on which a Living Unit on such Lot is first occupied as a residence.

(b) "Association" shall mean Memorial Thicket Homeowners Association, Inc.

(c) "Declarant" for purposes of the rights, if any, of the "Declarant" as set forth in the Declaration as such rights apply to the Property shall mean Presco Systems, Inc., its successors and any person or entity to whom it has assigned its rights as Declarant in an instrument recorded in the Official Public Records of Real Property of Harris County, Texas.

(d) "Lot" or "Building Plot" shall refer to each of Lots 1 through 10, all in Block 1, of Memorial Thicket, Section Three, a subdivision in Harris County, Texas, according to the plat filed for record under Clerk's File No. N396306 and recorded under Film Code No. 350088 of the Map Records of Harris County, Texas.

3. The Property is hereby added to the properties covered by and impressed with the Declaration pursuant to Section 6 of the Declaration. Subject to Section 4 below, all of the provisions of the Declaration shall apply to the Property with the same force and effect as if the Property had been originally included within the Declaration and the Property is hereby submitted to the jurisdiction of the Association with the same force and effect as if the Property had been originally included in the Declaration. Each Lot within

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the Property is deemed to be and shall constitute a "Lot," for all purposes, under the Declaration. No portion of the Property shall be deemed to be Common Properties, provided however all Owners of the Lots shall be Members of the Association and shall have the same rights as to the Common Properties as every other Member of the Association.

4. Notwithstanding any provision of the Declaration to the contrary, any Living Unit of one story constructed on a Lot shall contain not less than 2,800 square feet of living area. Any Living Unit of more than one story constructed on a Lot shall contain not less than 3,500 square feet of living area. Any Living Unit constructed on Lot 10, Block 1, of Memorial Thicket, Section Three, shall not have any second floor window facing directly west. Upon completion of construction of a Living Unit on each Lot, either a cedar fence or a masonry wall, to be not less than six feet in height, shall have been constructed along the rear property line of each such Lot.

5. All herein defined terms contained herein which are not otherwise defined herein shall have the definitions attributed to them in the Declaration. In the event that any provision of this Supplemental Declaration is inconsistent with the Declaration, this Supplemental Declaration shall control.

EXECUTED this 26<sup>th</sup> day of November, 1991.

PRESCO SYSTEMS, INC.

By: Paul W. Pigue

Name: Paul W. Pigue

Title: President

The undersigned joins herein for the purpose of evidencing its consent to the annexation of the Property to the Properties covered by the Declaration and to acknowledge and confirm that the consent to such annexation by two-thirds of each class of members as required pursuant to Article IX, Section 6(a) of the Declaration has been duly obtained.

MEMORIAL THICKET HOMEOWNERS ASSOCIA-  
TION, INC.

By: Warren C. Mueller  
Warren C. Mueller, President

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STATE OF TEXAS                    S  
 COUNTY OF HARRIS                S

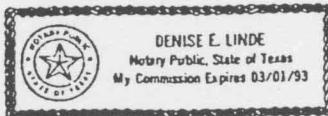
26 This instrument was acknowledged before me on November  
19 91, by Paul W. Pigue, the president  
 of PRESCO SYSTEMS, INC., a Texas corporation, on behalf of said  
 corporation.

*Benton R. Bentley*  
 Notary Public, State of Texas  
 Benton R. Bentley

STATE OF TEXAS                    S  
 COUNTY OF HARRIS                S

This instrument was acknowledged before me on 11-27-91  
19, by Warren C. Mueller, the President of MEMORIAL  
 THICKET HOMEOWNERS ASSOCIATION, INC., a Texas nonprofit corporation,  
 on behalf of said corporation.

*Denise Linde*  
 Notary Public, State of Texas



ANY PROHIBITION HEALING WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL  
 PROPERTY BECAUSE OF COLOR OR RACE IS UNLAWFUL AND UNCONSTITUTIONAL UNDER FEDERAL LAW.  
 THE STATE OF TEXAS  
 COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number  
 Sequence on the date and at the time stamped hereon by me; and was  
 duly RECORDED, in the Official Public Records of Real Property of  
 Harris County, Texas on

DEC 9 1991

*Anita Rodham*  
 COUNTY CLERK,  
 HARRIS COUNTY, TEXAS



FILED  
 91 DEC -9 PHB:53

*Anita Rodham*  
 COUNTY CLERK  
 HARRIS COUNTY, TEXAS